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ABSTRACT

The significant increase in the role of the federal government in educational policy-making has provoked a crisis; at the least, it has unleashed a gamut of opinions as to the balance and appropriateness of the roles to be played by the main jurisdictional elements of the system--federal government, states, localities, and public and private institutions of higher learning. To some observers, the threat of domination by an insensitive federal superbeast is near at hand and requires urgent, concerted counteraction. In the minds of others, the states and, by extension, their constitutionally subordinate localities have, by inadequate performances, forfeited their right to make all but the most mechanical educational decisions. In between is the largest number, those who respect but have not thought much about the problems of federalism. When pressed to do so, the Institute for Educational Leadership believes they will share our conviction that the federal system--with balanced roles and dispersed powers--is one of the wisest creations of modern statecraft and that it can be made to work effectively. This anthology of articles, edited speeches, and other readings contains information on alternative proposals and other forms of wisdom emerging about federalism. (Author/IRT)

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FEDERALISM AT THE CROSSROADS: Improving Educational Policymaking

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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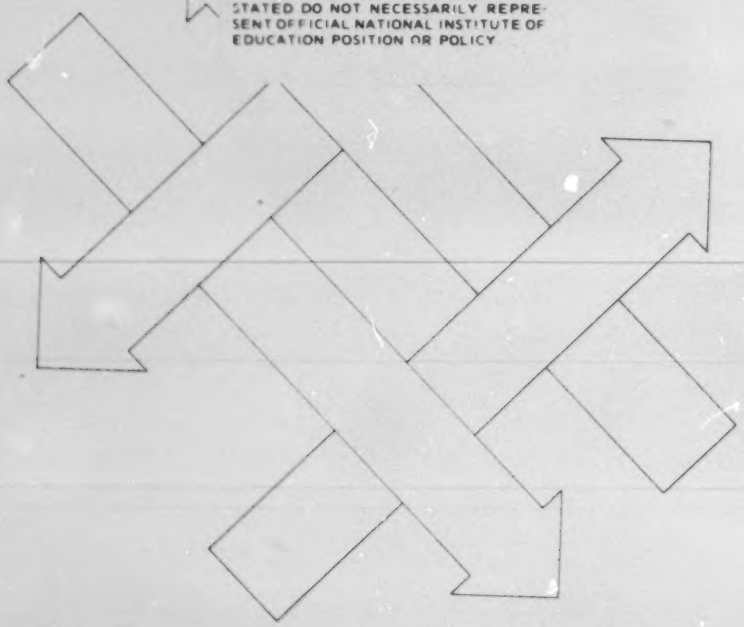

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The Institute for Educational Leadership (IEL) seeks to strengthen present and potential leadership in American education at the policy level of state and federal government. Established in 1971, IEL is a policy planning and coordinating agency for a number of related educational programs, including Education Policy Fellowship Program (EPFP), Educational Staff Seminar (ESS), The Associates Program (TAP), Postsecondary Education Convening Authority (PECA), a radio series over National Public Radio titled, "Options in Education", Career Education Policy Project (CEPP), Family Impact Seminar (FIS), Project on Compensatory Education (PCE).

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Since 1965, the program has placed over 250 mid-career persons in one-year internships in public and private agencies involved in educational policy matters. Carefully recruited sponsors who pay the Fellow's salary serve as on-the-job mentors by demonstrating, through their daily tasks, how educational policy is shaped at the urban, state, or national level. In addition, through weekly meetings, Fellows have the opportunity to interact with authorities in education. National meetings of Fellows with other special groups contribute further to their understanding of educational policymaking. Costs of recruitment, placement, and programs are borne by the EPF Program.

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Established in 1969, ESS is funded by the Institute and by partial reimbursement from the government agencies served. In fiscal year 1975 ESS conducted 73 programs for over 2200 federal employees.

The Associates Program (TAP)
Telephone: 785-4991

The Associates Program (TAP) is an evolving IEL activity. Its emphasis up to now has been to provide seminars for legislators and other policymakers at state capitals. Begun in 1972 with three state educational seminars, TAP now sponsors 22 seminars, all directed by Associates who, on a part-time basis, arrange five to 10 programs annually.

TAP maintains a network of state-level "generalists" (Associates) whose ties to IEL in the nation's capital provide rare linkages among federal and state education policy-setters. TAP encourages similar linkages among agencies and coalitions seeking to improve processes in state-level decisionmaking. It also sponsors national and regional conferences dealing with state-level responsibilities in education.

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IEL and National Public Radio co-produce the "Options in Education" series, heard weekly over most of NPR's 190 member stations from coast to coast. Voice of America rebroadcasts the one-hour programs, and IEL makes cassettes and transcripts available at minimum cost. "Options" has received awards from the Education Writers Association (1974 and 1975) and from the Council for Advancement and Support of Education (1974). Funds for "Options in Education" are provided by IEL, National Institute of Education, Robert S. Clark Foundation, NPR, and other grantors. A list of NPR member stations and a catalog of available cassettes and transcripts are available from IEL.

Career Education Policy Project (CEPP)
Telephone: 833-9051

The Career Education Policy Project (CEPP) airs the issues of education, work and society for educational decisionmakers. Funded by the U.S. Office of Education, CEPP uses the resources of other IEL programs – ESS and TAP – to inform both policymakers and the public of the issues and the potential of the career education movement. It also sponsors Washington Policy Seminars for policy-level career educators.

The Project on Compensatory Education (PCE)
Telephone: 833-9178

The Project on Compensatory Education, responding to continuing state and federal emphasis on equal educational opportunity and the right of each child to an adequate education, is sponsored by the U.S. Office of Education. It will seek to identify the major public policy issues in the governance of compensatory education at the federal, state and local levels.

The project identifies strengths and weaknesses in current compensatory education governance policies, primarily by obtaining information from key policymakers, public officials, educators, as well as parents and others involved in compensatory education in the nation.

Family Impact Seminar (FIS)
Telephone: 296-5330

The Family Impact Seminar seeks to identify and assess the effect on families and children of a variety of public policies. The Seminar and its several task forces are composed of scholars and policymakers. Together they examine and test the feasibility of developing "family impact statements" on selected government policies and programs. The specific issues to be examined are selected from a broad range of existing or proposed public policies. The policies may include some in such areas as education, health or welfare, which are specifically designed to help families and children. Other areas such as taxation, which are focused primarily on other objectives, but nevertheless affect families and children, also are examined.

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The Institute for Educational Leadership gratefully acknowledges permission to reproduce the following articles:

Robert C. Andringa, "The View from the Hill," *Change*, April 1976.

Joseph M. Cronin, "The Federal Takeover: Should the Junior Partner Run the Firm?" *Phi Delta Kappan*, April 1976.

Samuel Halperin, "Federal Takeover, State Default, or a Family Problem," *Phi Delta Kappan*, June 1976, (also appeared in *Compact*, Summer 1976, as "Is the Federal Government Taking Over Education?"). Also, "Politicians and Educators: Two World Views," *Phi Delta Kappan*, November 1974.

Howard M. Klebanoff, "Legislative Review: War, Peace or Armed Truce" appeared in *Compact*, Summer 1976, as "Let's Get Legislators and Educators on the Same Team for a Change."

Thomas R. Wolanin, "Congress, Information and Policy Making for Postsecondary Education: 'Don't Trouble Me with the Facts'," *Policy Studies Journal* 4.4 Summer 1976. (Also, "Comment" by Samuel Halperin in the same issue.)

Harry Wugalter, "The Missing Link: A State Perspective on the State of the Federal System." Portions appeared as "Straight Talk" in *Compact*, Summer 1976.

The publication and distribution of this volume have been aided by a grant from The Carl and Lily Pforzheimer Foundation, Inc.

A Foreword from The Institute for Educational Leadership

Federalism is in a state of permanent evolution — sometimes dynamic, often painful, and always responsive to prevailing political forces. At its heart for two centuries have been the questions of how and by whom power is to be shared and exercised, and toward what ends — issues that until recently had not greatly troubled the house of education. There, "federalism" had been more catchword than reality, with its implications for governance largely overlooked.

The significant increase in the role of the federal government in the world of educational policymaking during the past generation has changed all that. In some minds it has provoked a crisis; at the least, it has unleashed a gamut of opinions as to the balance and appropriateness of the roles to be played by the main jurisdictional elements of the system — federal government, states, localities, and public and private institutions of higher learning. To some observers, the threat of domination by an insensitive federal superbeast is near at hand and requires urgent, concerted counteraction. In the minds of others, the states and, by extension, their constitutionally subordinate localities have, by inadequate performances, forfeited their right to make all but the most mechanical educational decisions. In between is the largest number, those who respect but have not thought much about the problems of federalism. When pressed to do so, the Institute for Educational Leadership believes they will share our conviction that the federal system — with balanced roles and dispersed powers — is one of the wisest creations of modern statecraft and that it can be made to work effectively.

Too much educational policy has been made with scant regard to some of the hard lessons that several generations of federal, state and local decision-makers might have learned. There is too little public knowledge or awareness of the pressures, pitfalls and virtues of an interdependent system of mutually supportive educational roles. And small wonder! The literature is thin, the actors are transient, and the principal issues and political forces appear to change with the seasons.

Yet, certain verities persist, even in this imperfect setting. Fundamental, if often discordant or even contradictory, forces are at work as the federal system in education reaches a kind of crossroads following the national elections of 1976. America's political processes still stem from the bedrock values of a great democratic system. The ultimate objective of all these intergovernmental

processes is to serve the people. And, even if it is too seldom voiced, there is a strong will to make our political system function for the greater good. That is no less true, we find, in the world of educational decisionmaking, where, despite confusion and some discord, the needs of children and other learners are still occasionally remembered.

The problem of linkage between Washington and our state capitals stands at the center of this Institute's concerns. As our varied IEL programs to bridge the gaps between educators and policymakers throughout the intergovernmental system have matured, we have begun to collect alternative proposals and other forms of emerging wisdom about federalism. Much of it is contained in this anthology of articles, edited speeches, and other readings. While the selections tend to address primarily public elementary-secondary educational concerns, we believe that they also relate to the growing concern of higher education to preserve institutional autonomy while meeting the legitimate demands of the society for greater measures of accountability.

We are grateful to the authors, both those whose work has been previously published and those who are sharing their ideas for the first time in these pages. We solicit the written reactions of our readers. Nothing would please us more than an outpouring of responses — pro or con — which would justify a second collection of contributions to what ought to become a vital national discussion about the future of the federal system in education.

Samuel Halperin
George R. Kaplan

Washington, D.C.
December, 1976

Readers of this anthology will be interested in IEL's recent *Perspectives on Federal Educational Policy: An Informal Colloquium*. This discussion by five seasoned, bipartisan, Washington-based Congressional staffers and former Executive Branch aides involved in educational policymaking complements and analyzes the main lines developed in *Federalism at the Crossroads: Improving Educational Policymaking*. Copies of *Perspectives* are available from IEL, 1001 Connecticut Avenue, Suite 310, N.W., Washington, D.C. 20036 at $1.50 postpaid.

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THE FEDERAL TAKEOVER: SHOULD THE JUNIOR PARTNER RUN THE FIRM?

Joseph M. Cronin

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Achieving a Rational Balance: Some Realities of Federal-State Relations

John C. Pittenger

For the past year or two, I have become increasingly concerned with certain fundamental shifts in the relationship between the state and federal government. These changes have recently taken on new forms and, in various manifestations, have become part of the national debate which is being highlighted by the rhetoric of the presidential campaign. They worry me because any dramatic shift in the weight of power from one side to another would threaten the relationship between the states and the federal government which, for nearly 200 years, has been so delicately balanced in the constitution.

The implications for education are enormous. Even the slightest movement in this equilibrium inevitably bears on the schools and on colleges and universities. And today, as we appear to head even more directly toward greater federal control over education at all levels, our concern, as well as our vigilance, should be heightened. For the expansion of federal control is a deadly serious matter, and educators must become party in a thoughtful way to the emerging debate over the nature of our federal system.

Lest this sound like the ranting of a professional anti-government crusader — and one must note that the 1976 Presidential campaign evoked such fulminations from leading representatives of both parties — let me state that it is not. I do want to make the point, however, that we need to be careful about the balance of power now and always.

Although the current fashion is to condemn the office the candidate is seeking — exaggerated behavior we would once haved dismissed as bizarre — the fact is that the national mood in the wake of Vietnam and Watergate is genuinely one of disenchantment and distrust of government. The campaign rhetoric has been shaped accordingly.

Part of me clearly agrees that we have to scale down the role of government in our lives. We have come to expect government to solve virtually all our problems. That is reflected, for example, in the increasing number of responsibilities that have been heaped on the schools. But the counterpart to high expectations is that we become disillusioned and angry when the schools falter or government programs fail. That doesn't make good sense. It won't hurt us to

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John C. Pittenger, *Secretary of Education, Commonwealth of Pennsylvania*

lower those expectations and become more realistic about the types of problems government is able to handle.

That would not be a bad outcome of the election year rhetoric. But that is not really the basic message that is coming through. The appeal is, instead, to sentiments that are much more negative and bitter. The implication is that government of any kind at all levels is out of control and hell bent to do us in. Not only is government not doing anything right, we might be better off if it wasn't doing anything at all.

That type of thinking and speaking has a kind of primitive, gut-level appeal. It is, nonetheless, a line of reasoning that ignores some fundamental realities which convince me that the out-of-hand dismissal of government as a needed force is wrong, even though we are making some serious mistakes. Consider these four points:

1. Life in America is shaped by competing power blocs of enormous size and clout. Government may not always function well, but it is still the best bet the public has for keeping these powers in reasonable check.

2. The track record of government at all levels is on the whole very good indeed, as anyone reflecting on our standard of living would admit.

3. It is silly to think that in a world in which major issues — energy, food, the environment and, of course, peace — are global in scope, we can decrease the essential roles of the federal government without disastrous consequences.

4. In a world in which the distribution of shrinking resources — money included — is a new and crucial problem, the mediating role of government is absolutely essential.

We need a thoughtful discussion of governmental responsibility and roles, with the accent placed on "thoughtful." A lot of what we are hearing is mindless. And, it should be pointed out that, although the current rhetoric is fundamentally anti-Washington in form, it is only a matter of time, if it gets a foothold, until it comes to rest at our local and state doorsteps.

At those doorsteps sit a number of specific issues that have brought the matter of the relationship between the state and federal levels home to us in education. Within the past year or so, for instance, we have been faced with provisions of the new Education for All Handicapped Children Act, PL 94-142, the proposals in the vocational education legislation, the call for record-keeping on disciplinary matters, the impact of Title IX, and so on. In each case, state leaders reared back and fought. We apparently forced some corrective measures as a result, though we are still not sure of the ultimate outcome.

Aside from these obvious cases, however, we are not yet sufficiently vigilant in defending a sensible state-federal relationship. We sometimes acquiesce in federal policies out of a shortsightedness brought on by that acute disease, "shrinking budgetitis."

But in the long run, inconsistency will do us in. We can't take from the feds in hard times and scream against them in the good. There are only hard times ahead. We have to decide now what the nature of our compromises will be.

Those decisions have to be made in the context of a broad vision of the proper relationship between the levels of government.

Here, for what they may be worth, are the main elements of my own analysis of that relationship.

A federal system is better than one that is totally nationalized or left totally in the hands of the states and their districts. The principle undergirding that system is appropriateness. Responsibilities most appropriately handled at the state level ought to rest at that level. Responsibilities best met by the resources and reach of the national government should be dealt with at that level.

Historically, of course, the responsibility and authority for maintaining a public school system rested with the states — specifically state legislatures. That history can't be overlooked. The constitutions of the various states confirm that responsibility. In response, structures for governance, funding and administration have developed within each state. These structures should not be readily changed without careful attention to the consequences.

It must be said, both here and at greater length later on, that the failure of the states to fulfill their responsibilities, particularly in critical areas, was crucial to the federal decision to enter the educational picture in the fifties and sixties. That was not the sole reason, but it was certainly a major one.

One of the surest defenses against a usurpation of power is to use it well yourself. The states and their districts need to remember that. But despite failings, the principle remains: the fundamental educational role has traditionally been assigned to the states. And that system has at least two obvious benefits.

First, it provides for greater administrative efficiency and more sensible governance systems. To draw a parallel to the relationship between the state and local districts, for instance, I have taken the position that collective bargaining with teachers in the elementary and secondary schools is best handled at the district level, even though some districts themselves have urged statewide negotiations. I think a statewide contract would do damage to the administrative and governance relationships that have developed at the local level. Similarly, heavy-handed federal entry into matters appropriately handled at the state level is inevitably disastrous. It is ridiculous, for instance, that the new Handicapped Act gives parents the right to appeal a local district's decision to the *federal* courts. That severely damages the entire apparatus we have built for handling appeals, an apparatus I am convinced was fair to parents and children. Moreover, it will dump a hopeless and inappropriate burden on the federal courts.

Second, assigning the primary role to the states is sound educational philosophy. Each state seeks first to meet the needs of its own people. Out of that attention — and responsiveness — comes the testing and evaluation of diverse methods for diverse populations. The best of those approaches can then be validated and transported to other regions of the country. From the federal point of view, the diversity among the states makes each a laboratory for experimentation. The sensible federal policy is to encourage various forms of

experimentation or to examine strategies already in place with the possibility of duplicating the approach elsewhere. What that means as a matter of style is that the feds should first attempt to learn the nuts and bolts of successful local efforts before dreaming up new schemes.

To be concrete, Pennsylvania is a national leader in programs for the handicapped and the retarded. We have faced and begun to unravel administrative and program problems others haven't even thought about. Yet we were not able to make convincing arguments in Washington that the administrative procedures in the Handicapped Act are unnecessarily burdensome.

On the positive side, a policy of supporting and learning from state activities is evident in the approach used in distributing innovative program money under Title III of the Elementary and Secondary Education Act and now Title IV-C. This policy, as nearly as I can determine, has led to a reshaping of the priorities of the National Institute of Education.

What is still needed, though, is consistency. Blind consistency may be the hobgoblin of little minds, but a reasonable amount is the hallmark of common sense.

It is time to recognize certain realities about whether Washington will provide financial support commensurate with its growing authority. Simply put, it will not, whatever the label of the party holding power. The money isn't there. Nor, more critically, is the will. So it appears unlikely that federal spending will go much beyond the seven percent now provided for basic education and the 12 to 15 percent provided at the postsecondary level. It is thus essential that we avoid being trapped into accepting fundamental shifts in the balance of power between the states and Washington in return for modest amounts of money that will not grow.

To be specific, is there really a basis for believing that the Handicapped Act will be funded at the authorized levels? The answer is obvious: the Act will provide us with about five cents on the dollar for our special education costs. In return, the states are expected to yield away enormous hunks of administrative discretion. Some time ago, it seemed to be idle dreaming to suggest, as I did, that we might want to refuse the money and in return gain peace of mind and strike a blow for the balance of power. In fact, the possibility is now being talked about in a number of other states.

Are we really caught between the rock and the hard place in the matter of federal funding? Is it really a matter of choosing program cutbacks or federal control? I think not. There is still time — though it grows shorter — to mount pressures that will shape an appropriate federal role, one that seems to me should have four main characteristics.

In the first place, federal efforts ought to serve to strengthen rather than weaken the states. Broadly, that means paying careful attention to the experience of the states and their existing structures. Specifically, it means such policies and programs as the new priorities for the National Institute of Education, the authorization of funds to the states to study school finance, the role given the states in the distribution of ESEA Title I and Title III (now IV-C)

funds, and, of course, Title V (also now part of IV-C), which is intended to strengthen state departments of education.

Secondly, the most equitable distribution of federal funds is by allocation to the states and then to the districts. The transfer to the districts can be done by formula or by a competitive process in which state priorities are clearly stated. One of the benefits of the latter approach is that it minimizes the political impact of legislators who carry weight on the Washington scene. At least in Pennsylvania, educational funding is not pork-barreled.

Thirdly, some specific areas of educational need are most appropriately addressed at the federal level, for instance, the need to design legislation to meet conditions created by action of the federal courts. The Emergency School Aid Act is an example. While that Act may not be functioning ideally, it nonetheless is sound in principle. It is also completely appropriate and necessary for the federal government to act to help those who are not able to find a voice of their own and whose condition is a matter for national interest and concern. The prime examples are the handicapped, the disadvantaged as defined under ESEA Title I and those who, at the postsecondary level, are served through the Basic Educational Opportunity Grants.

But, while these are legitimate matters for federal legislation and policymaking, they should be addressed with the experience and structures of the states in mind.

Fourthly and finally, the federal government should take primary responsibility for meeting conditions that are uniquely national in scope and character. Educational programs for the Vietnamese refugees is a clear case in point. The influx of refugees was a direct result of United States foreign policy and, as such, required federal action to handle problems generated by the new population. And yet that was not immediately forthcoming. In the same category fall other outgrowths of foreign policy, including the funding of certain research in the universities as well as the stimulation at both higher and basic levels of international education, of area and language studies as these relate to foreign policy objectives.

Among those things the federal government should *not* do are the following:

It should *not* deal directly with the 17,000 local districts, for the reasons cited earlier.

It should *not* legislate or regulate so that the governance, funding or administrative procedures in the states are distorted or destroyed.

It should *not* overestimate its own power to deal with intractable problems. We should not think that violence in the schools will melt under under federal mandate. Or that violence continues because the states and the local districts are ignoring it. No one anywhere has found a magic solution for the range of conditions that provoke students to violence. The feds won't either. The sensible federal approach would be to help each state and district search out alternative methods.

It should *not* overdo a good thing. Witness the well-intended Buckley

Amendment on privacy of student records. Unfortunately, it casts such a broad net that it encompasses a whole range of records unnecessarily and is creating some needless barriers in, for instance, counseling and research. Similarly, the feds out of zeal laid burdensome requirements on the colleges and universities in legislation aimed at protecting pensions in private industry.

What, then, should be the main elements of a realistic and beneficial attitude toward the federal role in educational policy?

Whatever the ultimate answer, if there is one, we need first to meditate, to draw back when we can from the mechanics to consider the larger meaning of the federal role. We are all plunged into the day-to-day process of trying to keep our schools and colleges afloat. Our focus is largely short range: today's crisis, tomorrow's budget. But we need long-range goals and purposes as we fight each of those battles. Let's ponder very carefully the proper relationships that must exist between the federal and state levels.

Secondly, we must meet our responsibilities within the states to avoid the *need* for federal intervention. To do so, it is crucial that state legislatures allocate some discretionary money to the state agency to help districts face some unique problems. The feds are forever attacking us for not designing innovative solutions to school problems. But the states themselves rarely have any discretionary money to work with districts in research or experimentation. Like them or not, we are left to lean on the federal categorical programs as a result.

A third defense against the growth of federal power is to look all gift horses in the mouth. A case in point is the block grant proposal recently put forth by President Ford. In theory, that approach is appealing, since it promises to untie the federal strings on the packages of money. But you may recall that when the Nixon Administration grouped certain categorical grant programs into blocks of revenue-sharing money, the total amount of money was cut drastically. Let's be equally skeptical about the teeth on other horses as well. The new Handicapped Act promises $1 billion in new money by 1980. But we know it won't happen. That made the pitched battles over requirements of the Act all the more critical.

A fourth defense is not to grab federal dollars as a way of building local empires even in an era of budget constraints that affects all of us. The temptation is large, but the foundations, the rationale and even the expectations are built on quicksand. It is a real problem that federal funds support portions of state departments of education. It becomes a greater one if it forces us to support unwise federal policy just to save the jobs. In varying degrees, the same syndrome infects local districts.

The final defense against the acceptance of an all-encompassing federal presence is to argue for *a* federal role, but not *any* federal role. As Robert Andringa points out (see p. 71), there are many diffuse interpretations in Washington about the nature of the federal role. There is no consistent federal policy at either the higher or basic education levels. Creeping federalism is a hybrid vine. By readily surrendering to federal initiatives, we in the states abandon a critical function: helping the feds define their own role.

We do ourselves no favor by abandoning that responsibility. We do the federal government no favor. And we do the people no favor. It is, after all, their system we are protecting. It is an appropriate battle to wage as we celebrate the bicentennial year.

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EA 009 031

The Missing Link: A State Perspective on The State of The Federal System

Harry Wugalter

Very few individuals have an impact upon the Congressional members who assume a leadership role in education. It is rather unfortunate that a sincere effort is not undertaken to link the legislative leaders from the states with the Members of Congress who have similar interests, for there is an urgent need for understanding. The issue of honest communication deserves immediate attention because of the growing hostility among many state leaders about the federal government's responsibility and influence in the day-to-day operation of state government and educational programs.

When we attempt to create a uniform piece of legislation at the national level there's a tendency to forget differences among the states. For example, New Mexico is ranked 49th in per capita income but at the same time dedicates 75% of its total general fund toward the support of public education. Our effort in relation to our ability ranks us high. We, in New Mexico, are not barbarians and are capable of evaluating our needs, recognizing complex issues and even developing a far-reaching equalization formula for education.

Each state is different and has its own peculiarities. I recall a meeting when a congressional staff member, who knew nothing about our area of the nation, asked me about our busing problem. I responded that it was serious. He appeared very interested. I mentioned that our children traveled seventeen million miles during a 180-day period, and some unfortunately have to travel 120 miles a day in order to obtain their education. I went on and on until I realized that the staff member had no interest in that issue or the fact that we had problems because of the increased cost of fuel; to him busing meant only racial balance. I could have spent another hour discussing the desire of the Indian Nation to have schools on the reservation rather than have its children leave. This is an example of the differences that do exist and are usually not discussed when attempts are made to superimpose uniform statutes or regulations upon the fifty states.

Right now we are faced with accommodating or adjusting to the new federal legislation on educational assistance to handicapped children. I, for one, intend to review it carefully and then possibly recommend that our state legislature review the legislation and find out if it fits into the

Harry Wugalter, *Secretary for Education, State of New Mexico*

framework of service that has been planned. Before anyone enters into any agreement obligating a state in regard to this or any other legislation, it is imperative that the state legislature express its intent. It is obvious in most federal ventures that, after the initial thrust, the programs generally become the liability of the state. If that be the case, then we must make sure that it's the type of liability that the state legislature wishes to accept.

It is possible that the recent handicapped legislation (PL94-142) may have become a focal point for the pent-up hostility of those in the states who feel imposed upon by a federal partner who appears uncaring about what states are or are not doing in regard to public education. It's rather unfortunate, but based upon professional papers I have recently read as well as discussions with colleagues in various parts of the country, I believe that this hostility represents only the tip of the iceberg. I hope that those who are vitally concerned with the federal legislation will meet with state leaders — and, indeed, find out who the state leaders are!

The issues that have become the "hang-ups" can be resolved if those who are in positions of responsibility at both the state and national levels desire to work together. If the federal government does not wish to deal with governors or legislative leaders and receives input only from state educational employees, then how in the world will the necessary constructive changes take place?

I list ten points that have caused concern in connection with the federal involvement in educational matters in the states. They are, to my way of thinking, indirectly related to the hostility exhibited by many state leaders.

1. *The imposition of federal programs directly to school districts without input from the states* as to whether the state has already addressed the same issue.

2. *The claim that federal dollars are different from state dollars* and, therefore, should not be subject to state statutes, rules and regulations.

3. *The attitude that states have no business inquiring about programs* initiated between the school district and the federal government — that is, of course, until dollars do not arrive. Then it becomes a state responsibility!

4. The reluctance of federal officials, who encourage the implementation of programs, to recognize *cash flow problems that cause both state and local districts, at times, to terminate investments* to meet federal obligations and to lose the estimated earnings that have already been obligated for other programs.

5. *The tenure issue:* the state is often placed in the position of having to assume the obligation for tenure for federally-funded employees without having a say as to whether these employees should have been employed in the first place.

6. Salaries of federal employees, which at times exceed those paid "regular" state employees doing the same job, cause problems — inasmuch as *federally funded employees depend upon the state for their retirement,* rather than the federal government. Many jump from one federal program to another in order to build up a higher average salary that will cause the state to incur a future retirement obligation.

7. Independent action of various federal program managers causes competition for the same "entitlement." Since the same child is oftentimes listed as an "entitlement" for a variety of federal programs (without regard to the fact that the state and local government are already providing an expenditure level for a full day's regular program), *there is competition for the same child*. Since we are dealing with a limited number of hours during the day and many of these children have to be present for a particular length of time in order to be counted as "entitlement," the reason a youngster can't read is perhaps that he wasn't in a class long enough when reading was taught.

8. Enticement of the federal government offering "possible funds" to a local school district after the board has approved an expenditure plan creates grief and causes well-meaning local boards *to alter plans in order to accommodate the federal government and create an eligibility for unpredictable funds*. At times, vested interest groups are made aware of funds being available which require matching, and pressure is exerted on boards to revise the program they planned prior to approving their own budget, because failure to do so might bring the charge that they did not take advantage of dollars which were "available."

9. The administrative overhead to state departments of education by the federal government without regard to the existing state appropriation level can create *slush funds* that can be used by such departments to implement programs that may have been denied by the state legislature during the regular appropriation process. This places a state department of education in a difficult position, and if a large percentage of its staff depends upon federal dollars for its existence, this, in fact, causes the department to become a captive of the federal bureaucracy. This split loyalty is a difficult posture to maintain.

10. There is grave concern that federal involvement may create an artificial economic boom which would cause communities to forget the initial purpose of the program or for whom it was designed when the federal dollars begin to disappear. It isn't uncommon for the number of *jobs which will be eliminated to become the major factor used by a board to continue a program* without regard as to whether the children who made it all possible received any benefit. As a colleague remarked at one of our Cabinet meetings, "Federal dollars are like dope — it's great when you're on the trip, but hell during withdrawal."

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FEDERAL TAKEOVER, STATE DEFAULT,
OR A FAMILY PROBLEM?

Samuel Halperin

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The Dragon in Washington: Paper or Real?

Fred G. Burke

I have long taken issue with the views of many of my colleagues that the dragon from Washington was about to devour us. Too frequently the dragon was not only paper but one concocted in order to hide our own short-comings.

I agree with Joe Cronin and Sam Halperin that federal legislation is increasingly preemptive, prescriptive and regulatory, but increasingly so is *all* legislation. What we're seeing is not a conspiracy at the federal level but a phenomenon which is affecting the legislative process generally. The resurgence of the legislature is possibly one of the most significant trends affecting governance in this country and, given the preeminent role of education in the policy process, it is bound to have an enormous impact on us.

You have drawn proper attention to the sad state of the Office of Education, particularly its leadership or the lack of leadership, which has characterized that important office over the past decade or so. There are no villains here but, rather, a failure on the part of those in the position to set priorities to perceive public education in the same light as does, for example, the leadership of the rest of the western world.

The constant harangue, that federal bureaucrats and politicans are plotting to take over the nation's schools, is part of a legacy of an earlier era and if it were not for the significant impact it has had, it would seem ridiculous. If anything, what we see today is the contrary; namely, a tendency at all levels to *decentralize* decisionmaking. Public policymaking in an era characterized by a stagnant economy and a post-affluent society is no great bargain and, increasingly, there is a tendency not to concentrate on but an attempt to decentralize decisionmaking. To me, it is no accident that the organizational hierarchy of Weber has chosen this particular moment in history to seek its eclipse.

I have noticed during the years that I have been involved in public education, and in contrast to some of my fellow chief state school officers, an increasing tendency on the part of policymakers in Washington to understand and respect the supremacy of the state in educational matters. The trend clearly seems to be in the direction of a recognition of the state as the primary legitimate source for educational policymaking. That is not to say, however, that

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the feds have given up trying to accomplish beneficial educational ends because of the limitations that the states' supremacy seem to posit.

One of the concerns I have about the emergent role of the legislature in the policy process (overall, more virtue than vice) is a tendency to make simplistic assumptions of cause and effect. Legislators tend, despite disclaimers to the contrary, to be removed from everyday affairs and thus perceive of social problems in overly simplistic terms.

The failure of bureaucracies and institutions to resolve critical educational problems, despite the money which Congress and state legislatures have made available, incline them to believe that the fault lies with the people who are administering the programs, not the inadequacy of the dollars or the complexity of the issue. This simplistic view leads to an assumption that the sheer rendering of policy, like a sigh of relief, resolves the problem. But when it is discovered a year hence that, indeed, the problem has not evaporated but is worse, there has to be a villain and the villain frequently is, of course, "the bureaucracy" or that other inferior level, the federal maze. Thus, frustration leads to blame and blame leads to more specific, prescriptive legislation designed to insure that the human frailties of bureaucrats and state government generally will not frustrate the interest of brilliantly conceived policy.

I think it is also worth recalling that a divided government with one party entrenched in the legislature and the other in the executive, so characteristic of not only Washington but, in recent years, of many states as well, automatically inclines the legislature and its newly-discovered investigatory capability and young, eager staffs to generate suspicions as to the real intent of bureaucrats to faithfully carry out legislative letter and intent. Their "solution"? — further encumbered policy with overly specific regulations which, in less partisan times, would normally be left to the bureaucracy. I have seen in New Jersey, for example, that administrative committees concern themselves with rules and regulations to implement law in a fashion as intense as their review of proposed statutes. I welcome the involvement of the Joint Legislative Committee on Education in New Jersey for, if we do our work well, we have already elicited their support before the battle begins. On the other hand, a deep involvement of legislative committees in the language of rules and regulations does not augur well for the continued separation of policy and administration, as fuzzy and as vague as that distinction may be.

I am pleased that you raise the question as to why voices are not heard from the educational community who are more respected and listened to on these critical educational issues. I have long been deeply troubled that there is no spokesman that possesses even minimal universal legitimacy.

In my view, public education *vis-a-vis* Washington will continue to be reactive until a legitimate and powerful educational spokesman can be developed. The weakness of the role of the U.S. Commissioner of Education is, of course, part of the problem which may or may not be resolved by raising that position to Cabinet rank. An organization like the Council of Chief State School Officers and, I fear, the Education Commission of the States as well, is often dependent on partisan state politics. In my view, this renders them impo-

tent to deal with the real issues of educational leadership. Possibly the nearest we come to this capability (which is so much in evidence in most Western nations) is the evolution of such *ad hoc* organizations as the Committee for Full Funding of Education Programs, the Institute for Educational Leadership and, possibly, the American Council on Education. The NEA, which provided critical leadership at one period of our educational history, has become a trade union as has the AAUP and, for a variety of complex reasons, there seems to be no educational spokesman possessed of an authoritative voice ringing forth from the ivy covered towers of academia.

We have in the northeast a six-state informal consortium that attempts to take some initiative in the development of legislation. For example, when it was evident that federal vocational education legislation was to be rewritten, we called together voc ed people and our legislative liaison people to begin to develop a unified approach. Although this effort was not particularly successful, I think it is significant in its initiative and in the precedent it established. We in New Jersey played a significant part in the development of the legislation for the handicapped thanks to the role played by Senator Harrison Williams[1] and his staff and because of my determination to act rather than react. We need somehow to find the capability to generate legislation and propose policy at the national as well as the state level. It seems incongruous to me that significant education legislation is drafted by tiny federal professional staffs, while there exists enormous talent in the many state departments of education.

But change — slow as it may be — does seem to be occurring. Local and state initiative is beginning to emerge. Our "thorough and efficient" struggle, beginning with the court decision of *Robinson* v. *Cahill* and culminating recently in final passage of our income tax, is indicative of what can be and what, I think, will be increasingly initiated and successfully achieved. If a way can be found to provide more direct federal assistance to those states which are willing to initiate and tackle the big problems, more of this would occur.

As to your specific suggestions, I have some concern about the Education Commission of the States. I hope that it will now be able to manifest the promise which was implicit in its origin. I wonder whether, given the tendency of legislatures to target their money precisely, we can look for the kind of funding for ECS that you suggest.

I share Sam's view about increasing the capability of state legislatures to play a more significant role in educational policymaking. While I, as any bureaucrat, have some fears as to partisan motives and the ensuing rapidly shifting policy directions, I realize that the increased involvement of legislatures is inevitable and we should, therefore, attempt to improve the quality of that involvement. I want to commend the Institute for its early recognition of this trend and for enhancing the quality of the relationship between the bureaucracy and the policy process, both in Rhode Island and in New Jersey. I know that this contribution has made an enormous difference.

[1]Democrat of New Jersey, Chairman of the U.S. Senate Committee on Labor and Public Welfare.

Finally, Sam's observation that there is virtually no opportunity for meaningful sharing of views among federal and state legislators or among governors, education aides, etc., is possibly one of the most significant observations made in his paper. It would be useful if the Institute could take the leadership to bring together a handful of people to discuss this problem and to blue-sky some more imaginative ways to further the kind of exchange necessary for the strengthening of the intergovernmental system in education.

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EA 009 033

The Role of the State In Education

Warren G. Hill

Twenty years ago, as a chief state school officer, I assumed that "state" meant "state department of education" and that it had a trilogy of roles — leadership, service and regulation. The functions sounded reasonable, "leadership" was obviously good and "regulation" obviously bad, and no one in my audience had any way of knowing whether the percentages alloted to them were going down or sideways.

Now there is less certainty about what constitutes the state. To many it is the governor and the legislature. A school board member would add the state department of education. A college president would add, among others, his board of trustees and state agencies of postsecondary education, finance and control, public works, personnel, planning and environmental protection. It is, like education (which I consider to embrace a cradle-to-grave spectrum) many things to many people.

Against this backdrop, I propose to address these three questions:

1. How did states get into the education business in the first place?
2. How significant is the states' role?
3. What are the problems that are most critical — at the state level — and what can be done about them?

1. *How did the states get into the education business in the first place?*

Slowly and carefully!

On the eve of the Revolution there was no public provision for elementary education, except in New England, in the American colonies[1]. The colonies had some schools of the Boston Latin Grammar type, some "dame" schools and some for paupers.

Of the several things that happened between the Revolutionary and Civil Wars, two deserve special mention: (a) the federal constitution made no provision for education and thereby "left it to the states," and (b) the motivation for initiating schools became economic and governmental rather than religious, reflecting the desire of a new nation to establish itself and its people in economic

[1]Rudolf, Frederick. *The American College and University, A History*, Alfred A. Knopf, N.Y. 1968 p. 21.

Warren G. Hill, *Executive Director, Education Commission of the States*

independence and governmental stability[8]. Free elementary schools were common, but it was not until 1918 that all states had compulsory attendance laws.

The Northwest ordinance of 1787 provided an economic base for schools by setting aside public lands, and the Kalamazoo case in 1874 made it legal to spend public funds on secondary schools. These are, then, some of the highlights.

We tend to forget how very recent all of this is. At the time of the Kalamazoo case, my grandparents were alive and beginning their families. By 1885, less than eight percent of the high school age group were in high school; today, attendance, at least at the entry level, is almost universal.

There were nine colleges at the time of the Revolution, and one of the important things about them was their receipt of public funds. Harvard, established in 1636, was supported by the General Court from the moment of its birth, had 2,000 acres of land and 100 pounds per year given to it and for 200 years had the benefit of the Charlestown Ferry rents. William and Mary enjoyed the revenue from a tobacco tax as well as an export duty on skins and furs. Yale students were excused from both taxes and military service, and the state on one occasion gave the college the proceeds from the sale of a French prize brought into New London by an armed vessel of the state.[9]

The Morrill Act, at the time of the Civil War, provided the first significant support for public higher education (30,000 acres of public land per Congressman) and introduced the "agricultural and mechanical" arts as a priority need. The introduction of normal schools, after the Civil War, provided a planned supply of teachers for the expanding public schools and became the basis for a significant portion of our present divisified system of higher education.

2. How significant is the states role? Very.

The classic concept of education as a cluster of scholars gathered about the feet of the master, high on a hilltop and contemplating the verities, leaves a lot unsaid. In a society based on the rule of law, with a concern for consumer protection, an interest in quality at the least possible cost and a clear recognition of the relationship between credentials and competency, certain questions have to be raised about the idyllic operation on the hilltop:

- Is the school licensed and accredited?
- Is the teacher certified?
- Were the students conveyed to the hilltop in a vehicle that met all applicable safety standards? Was the driver qualified? Were insurance requirements met?
- Will the session last five and one-half hours so that it can be counted as a full day for state assistance purposes?

These questions are ones that might be raised at the state level. There could be others, from other sources.

[8]Rudolph, op. cit., p. 1
[9]Rudolph, op. cit., p. 15

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From the teachers union:

- Shouldn't an "outdoors" assignment, with all of the potential hazards involved, merit additional pay?
- Is there adequate provision for lunch time and coffee breaks?
- Doesn't the size of this class merit the availability of a teacher's aide?

From the principal's (or superintendent's) office:

- Who authorized this trip, anyway?

From the school board (or parents):

- How can these children keep up with the others when they are consistently denied the equipment, library resources and specialized personnel available at the school building?

Those who rail at the "gate keepers" need to remember that organized society requires restrictions that protect the many from the few. Exactly as we defend ourselves against the speeder, the burglar or the entrepreneur who would market spoiled food, we must defend those who are to be educated from charlatans. The state has a primary role in this area. It licenses schools and colleges in order to insure that those who would operate them have the resources to do so. It certifies teacher because *some* method, however, inadequate, must be used to separate out the incompetents. There have to be standards with respect to facilities, buses and insurance or children, somewhere, would be put in jeopardy.

The states did not come quickly to their present level of concern in these areas. Even though public education is a state function and local boards of education are, indeed, state rather than local agencies, the initial reluctance — at the state level — to find the necessary funds permitted the operation and support of the schools to become an essentially local matter. Teachers were employed by, and certified by, the local school committee. The buildings, the length of school day and term, the curriculum, the supplies — all went, initially, without review. Patronage was the order of the day, whether the matter at hand was the teaching position or the contract for the wood. Indeed, when the Civil War ended, all Pennsylvania veterans were given teaching certificates as part of their mustering out benefits.

In addition to consumer protection, the state provides money, in substantial amounts, for the support of the public schools. In recent years, following a series of court findings, state and local monies have been made available in programs that are of assistance to students attending private schools. States appropriate the bulk of the funding for public higher education and increasing amounts, in a variety of ways, for private postsecondary institutions or their students.

Coming back to state agencies for education and that initial trilogy of leadership, service and regulation, there *is* regulation, as I have noted, but there is also, in varying amounts, service and leadership. Service includes providing information (building costs, federal requirements, etc.), technical assistance (how to establish a school lunch program), and professional help with special problems (district workshops). Leadership could involve encouragement to undertake a proven but missing activity (kindergartens), to try new approaches

(reorganizing around "middle schools"), to cosponsor, help develop and utilize new developments (cable TV programs), to initiate inservice training programs for teachers, etc. There are school systems that can and might do most of these things for themselves — but not all. If education is a state function, then the state stands as the protector of the least child and makes certain that he or she obtains the opportunity which is his or her right.

3. *What are the most critical problems — at the state level — and what can be done about them?*

Before providing a list (which will not be in order of priority), I would note three things:

There are a great many more problems than the ones I will identify.

The most troublesome problems are complex and lend themselves more readily to amelioration than they do to solution.

My suggestions for solutions will, because of my involvement here, suggest actions for ECS in several instances.

These seem to offer the best basis for initiating discussion; the occasional overstatements are for emphasis.

A. *Educators tend to decry rather than understand the political process and, as a result, are ineffective spokesmen.*

Educational leaders and spokesmen tend to be of middle age or more and remember the halcyon years when good meant more, everything was onward and upward, and support was expected and virtually automatic. I heard a state senator in New England tell a regional conference of several hundred educators that "the day when the chairman of legislative committee bowed three times to a university president and only came up twice is over." It sure is.

Our appearances before legislators have often been disastrous. Our spokesmen have been seen as arrogant and condescending. They *knew* that what they were seeking was admirable, good for the individual, good for the state and that anyone with half a mind would see that. They assumed that their priorities and those of the legislators were the same. Sometimes, that is the case; often it is not. Let me suggest for you the priorities that might be in the mind of a legislator listening to an ardent plea from a president, a commissioner or a chancellor. (I have never been a legislator, so these are contrived.)

- Will supporting this help me get re-elected?
- Will it help my district?
- Will it help my party?
- Which of my colleagues, to whom I have "chits out," is supporting this?
- Would it be a good thing for the state?

Please note first that there is no question of cost and second that the *last* priority is the one held by the educator.

Textbooks on educational administration gave us chapter and verse for years on "keeping education out of politics." This is valid if we're talking about *partisan* politics. We need help from both sides of the aisle. We also need to understand the political process, to find leaders to support what we need, to arm

them with an array of expected benefits, to learn how to organize support and use it.

ECS was established to bring political and educational leaders together. We have done that — to a degree. We need to bring more of them together at the state or regional level, around critical issues, and get them acquainted with each other and each others' agendas. Legislators are not bad people. Many, in fact, have used every political skill they had to further educational causes. But some have become disenchanted with what they have seen as incessant demands and no recognition of the value of competing demands or of possible political implications.

B. *The states are not being heard by the federal government with respect to educational matters.*

The statement, as it stands, may be too inclusive. *Some* states may be being heard (particularly those that maintain an office in Washington), but many states are not and, more importantly, the states *collectively* are not. I see no inclination on the part of the federal government to *seek* state input before legislation is proposed or, on the other end, when regulations are being drawn. Joe Cronin, the State Superintendent in Illinois, is warning the countryside about federal takeover.[4]

I lose no sleep over a federal takeover. My concern is that education is a *state* function. The states and their citizens provide the funds for public education — almost all of them. Legislation affecting schools and colleges is often passed in Washington without adequate information with respect to what the effect will be in the various states, what the cost will be or will become, or what compliance will be required.

Federal legislators would, I am certain, welcome more input from the states. They initiate legislation which they feel to be of value, hold public hearings, and must be distressed by the limited input they obtain. Hearings tend to attract representatives of organizations who offer testimony based on their particular objectives and on how the legislation might affect them. The *states* are seldom represented in numbers or in a collective way. Dr. Richard Millard of ECS, in the field of higher education, has probably done as much as any one person in getting the states' point of view before congressional committees. We need more like him.

It would be dramatic if testimony from the states were offered to Congress recommending that certain legislation be enacted. A proposed, and agreed upon, draft of the legislation could be made available. Support could be provided by governors, legislators, educational leaders. Background information on the issue, a listing of potential benefits, assessments of costs — all of these things could be done if the educational and political leaders of the states would agree on the desirability of acting together in the manner described. Who can help most with this? We can, primarily through the activation of education councils in the ECS member states and unending attention to the desired outcomes.

[4]Cronin, Joe. "The Federal Takeover: Should the Junior Partner Run the Firm?" *Phi Delta Kappan*, April 1976. (See p. 1 of this collection.)

C. *Public disenchantment with education.*

Some of the disenchantment is well-deserved. Parents, legislators and a great many citizens remain disturbed by violence on campuses, discourteous behavior, non-negotiable demands and life styles that run contrary to long-held moral precepts. Others are concerned that instructors set poor examples, that graduates cannot find suitable employment, that costs are far too high. Many parents are concerned for the physical safety of their children in public schools. They question the value of the education being received. They resent teacher strikes, demands for higher salaries, and the failure of teachers to demand "good work."

The public will not lose its disenchantment because someone mounts a public relations program to attain that objective. The public will provide the support (not just financial) required by our schools when we:

- Take them into our confidence and work with them.
- Solicit and accept suggestions. We have to get off our kick that non-educators can't contribute to the educational process (including the education of the non-educators' own children).
- Make clear what we're trying to accomplish.
- Stop alibiing by insisting that what we do can't be measured.

The public is being taxed to support education. Many citizens feel that the cost exceeds the benefit. Many do not understand what the schools are attempting to do, the difficulty involved, or the reason why costs are greater than they used to be.

Here are two suggestions:

a. The conditions surrounding the teaching act are so substantially changed that a collection of the best available minds should be brought together to identify and describe what the situation actually is. A second-level activity, with widespread involvement of citizens and political leaders as well as educators, would be an assessment of what these changed conditions mean in terms of what happens in the teaching situation. The eventual and hoped-for outcome would be to assist teachers in their increasingly complex task and to enhance the possibility of students' obtaining what they need. Too many experienced teachers, successful in their work for many years, are retiring with a sense of bitterness and frustration. They have been failing and don't know why.

b. New methods of cooperation among parents, teachers and political leaders are needed. ECS could help bring them about.

D. *The lack of coordinated planning.*

There is a great variety of planning going on but a lack of result in "bringing it all together" at the state level. Let's look at the layers.

- Certainly the governor plans. He plans both with his political leadership and with his state planning agency personnel. He also has the benefit of the fiscal planning that is done in the state budget office.

- The state planning agency typically has several agendas, but they have little reference to education. Priority tends to be given to obtaining federal funding, economic development, environmental concerns, and similar tasks. The state department of education, burdened with traditional programs to administer as well as federal reporting requirements and operating in an arrangement where local communities have the basic responsibility for planning, has limited potential in this area. Planning concerned with costs and the need to increase the state's share, enrollment forecasts, and the collection of vital statistics do occur with consistency. Some of the larger states are able to examine problems in more detail, develop more information, and make more recommendations to the legislature, the school districts and the public at large.
- State coordinating or governing boards for postsecondary education make plans. These agencies, most of which have been created in the past twenty years (and including the 1202 commissions), have state-wide systems planning as a major activity. The quality of the product varies considerably, primarily in terms of the degree of involvement of the public and political leadership in plan development.

College and university planning has also varied in terms of institutional resource, size, age and tradition. The presence of state-wide agencies has sharpened the planning in many instances and required its relationship to the state system.

With all this planning going on, where does the failure of pay-out occur?

The major decisions which affect education (public education) are made in the halls of state legislatures. The basic item under consideration is the governor's recommended budget even though important legislation can be introduced apart from it. The places where planning can go wrong include:

- The requests made for education are not based in planning but are simply "add ons" to the previous year, with a percentage increase for inflation.
- The governor's budget was prepared by the state budget office — which is seen as "enemy territory" by the educators. The budget office is apt to be fine-tuned to political considerations but tuned out with respect to the requests of educators. It doesn't help, these days, if the educational enterprise is seen too fat, not accountable, not well administered or not related to reality.
- Only limited effort has been made to involve political leadership in the planning process or even to keep it informed about real needs. Politicians do not like surprises, and they cannot be expected to support requests which come on scene without their knowledge.
- Internecine warfare among the supplicants is a constant hazard. Publicly or covertly undermining the requests of other institutions or agencies simply delivers the whole enterprise into the hands of those who do not wish to provide what is being requested. The burden for getting the planning together at the state level begins with the educators. Political

leaders have other agendas, but my experience leads me to believe that they are anxious to be involved and to have planned, justified programs to support.

ECS is currently involved in assisting state officials in this regard in several major ways, four examples of which are:

- The Evaluation and Improvement of Statewide Planning Program, supported by the Lilly Endowment, an activity carried out in the states at their request.
- The Inservice Education Program, supported by the Kellogg Foundation, which conducts national and regional seminars around critical issues.
- The Education Finance Center, supported by the Spencer Foundations and NIE, which assists states in analyzing their school finance programs and helps draft new approaches to meet court requirements for programs and tax equity.
- The Equal Rights for Women in Education Project, supported by the Ford Foundation, which analyzes federal legislation and regulations, reviews state laws and court cases and suggests model state legislation to eliminate sex discrimination.

I have not included finance in my list of programs. This is not because I do not see finance as an important problem but because it is so often used to obviate discussion of critical issues. The fact that states, at a given time, lack adequate funds or have not succeeded in developing tax structures that yield the required resources or have not achieved appropriate efficiencies in agency or institutional operation is not critical to the state's role in education. The state's role will remain essentially the same within whatever funding level is available, and the topic of finance would be better examined as a separate subject on another occasion.

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EA 009 034

Congress and the Executive Branch: The Struggle for Policy Control in Education

Richard Dallas Smith

The struggle between Congress and the Executive Branch for control of policy in education has created a complex set of organizations, rules and forces affecting federal policy on education.[1]

This struggle has caused Congress to overreact by becoming heavily involved in policy implementation and, to a great degree, has witnessed the Executive Branch trying to create its own policy without the basis of law. Short of proposing something as dramatic as an education program costing several billions in new money, any new political Administration would face some very difficult problems in mastering its own house in the field of education. Executive appointees would have their hands tied by rules which, whatever their ultimate effect, appear to have been designed to frustrate their predecessors. New legislative proposals would run up against Congressional customs developed in an atmosphere in which proposals of the Executive Branch have usually been ignored.

Even if a new Administration were to embark upon a bold new approach to education, it would be unwise to do so until the groundwork is laid by building trust and confidence in both the Congress and the education community. This requires open communication, candor, sound administration, and, most of all, appointees who are viewed as having competence and integrity. The Congress and the education community would not be persuaded that these were present were a new Administration to propose consolidation of existing programs without vastly increased funding or to suggest increased aid for welfare and

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[1]The writer regards the conflict between the Congress and the Executive Branch as having begun with the reorganization of the Office of Education which Commissioner Keppel carried out after the enactment of the Elementary and Secondary Act of 1965. That reorganization made the Congress and some of the education community unhappy, with the result that the Bureau for the Education of the Handicapped was created by law in 1966 over the objections of Keppel. Subsequent actions by Commissioners of Education led to unusually frequent legislated internal organizations of OE and limitations on discretion, such as section 421A(c) of the General Education Provisions Act, the "Cranston Amendment." The origins and provisions of the General Education Provisions Act may well be the proper subject for the study of the relations between the Congress and the Executive Branch.

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health as a means of freeing up state and local funds for education. The latter approach is contrary to the experience of educators with revenue-sharing and our collective hopes for equality of educational opportunity. It would also reinforce present inequities in revenue capabilities and local spending patterns.

Proposals such as these are being advanced with some seriousness as a reasonable approach to federal aid to education. They are not. Rather they heighten the suspicions of an already skeptical Congress and education community which has involved itself increasingly in detailed policymaking and implementation in education. The result of that suspicion over the last ten years is a series of statutes creating an almost Byzantine maze of legislated organizations, fractured responsibility, and complex rules which play a role in almost every facet of federal education programs. These statutes are the product of a decade of distrust, if not open hostility, on the part of Congress toward the Department of Health, Education and Welfare (HEW) and the Office of Management and Budget (OMB) and are designed deliberately to require modification by law rather than by reorganization plan. In addition, within the Congress, these statutes are so drawn as to force their reconsideration under the aegis of Congressional committees having education jurisdiction rather than that of government operations committees having general government jurisdiction.

This assertion of Congressional involvement in policy implementation has been matched by the Executive Branch, notably in HEW, in policymaking without a basis in law. Responsibility within HEW for education programs is vested by statute among the various agencies and officials in the Education Division: the Office of Education (OE); the National Institute of Education (NIE); and the Office of the Assistant Secretary for Education (ASE). But within HEW, the laws diffuse responsibility to the point that no official, whether it be the Secretary of HEW, the Assistant Secretary, the Commissioner of Education, or the Director of NIE, can make or carry out policy for education or even coordinate policy within the Education Division.

The Secretary is given no statutory authority for the administration of education programs; the only authority the Secretary possesses is the general responsibility for management of the Department. The statutes vest administrative authority for those programs in a number of subordinate officials. At the same time, responsibility for the enforcement of anti-discrimination and privacy laws is lodged in the Secretary; and those laws, which affect almost every education agency, institution and organization in the nation, are generally enforced with very little influence by relevant officials in the Education Division of HEW.

The Assistant Secretary has responsibility only for Emergency School Aid (which has been delegated to the Commissioner of Education) and the Fund for the Improvement of Postsecondary Education. The statutes do not even authorize the Assistant Secretary to supervise or coordinate the agencies in the Education Division. The functions of that office are thus primarily ceremonial.

Even though authority for most education programs is vested in the Commissioner of Education, the Commissioner has limited legal authority to exercise

judgment or discretion with respect to the manner in which those programs are administered or regarding the structure of the internal organization of OE. Congress has structured much of the agency by law, with mandatory delegations of functions.

Responsibility in NIE, a small agency, is bifurcated: the Director is responsible for its management and reports thereon through the Assistant Secretary to the Secretary, while the National Council on Education Research (the members of which are appointed by the President) has the sole statutory power to make general policy for NIE and reports to nobody.

With respect to internal structures of these agencies, the authorizing and appropriations statutes, as well as committee reports and other "unlegislated understandings," limit the number and use of staff positions for which functions, locations, and job descriptions are prescribed by Congress.

The Congress has created rules which give the Executive Branch little opportunity for flexibility in the implementation of policy. The most obvious example is found in the area of prescribing and adapting regulations for federal programs. Existing laws require all policies affecting the administration of education programs to be established by formal regulation procedure, including:

1. a citation of the legal authority from which each substantive provision is derived;

2. establishment of an effective date only after public hearings for comments by interested parties (which comments must have an official response published in the *Federal Register);*

3. submission to the Congress, which may reject the regulation as inconsistent with law; and

4. promulgation in accordance with a time schedule submitted to Congress. Generally this cumbersome regulation process takes from 75 days to 18 months to accomplish.

In addition, a number of general provisions, designed by Congress to lessen the likelihood of policy being created through appropriations and to prevent unauthorized consolidation of programs, have the effect of preventing coordination among programs and cooperation within and among education agencies.

Mistrust in the discretion or judgment of the Commissioner of Education has led to stringent controls over the Executive agencies. Commissioners of Education have seldom had tenures exceeding three years, with the average less than two. Each Commissioner seems to have intended, upon taking office, to be much more than a "check writer" and hoped to leave a major imprint upon education during his predictably short tenure. Each Commissioner appointed a few bright people whose careers and ambitions were viewed as dependent upon "making a mark" during the tenure of their sponsor. In recent years Commissioners have been reluctant to submit to Congress their various proposals in the form of legislation. The regular processes were thus sometimes bypassed in ways calculated to achieve largely political

objectives. Some Commissioners have sought to implement them (1) by administrative procedures, and (2) by seeking authority through the appropriations process. These attempts were not popular with the authorizing committees.

In the ensuing struggles between Commissioners and the authorizing committees, the Commissioners were, for political and legal reasons, unsuccessful. Politically, the Commissioners drew upon "university elitists" for ideas and the chief state school officers for support, using a few federal dollars to bring about big ideas in education and concentrating decisions at the federal and state level. Most education organizations, on the other hand, represent local authorities and practitioners and felt left out, underfunded, and subject to policies over which they had little influence. Increasingly, they turned for support to the authorizing committees in Congress.

Legislation emanating from this local-based alliance not only slapped down Commissioners' proposed policies but spelled out, in great detail, the manner in which Congressional policies were to be implemented, to the point that both law and administration have become cumbersome.

Relying heavily upon technicians and lawyers, the Congressional committees and the outside groups made sure that the laws were tightly drawn, leaving little flexibility for administration and always threatening law suits against U.S. Commissioners who tried to depart from Congressional intent.

The options for dealing with this maze are limited, but regardless of any new political Administration and education policy, fundamental choices must soon be made. The maze can, of course, be wiped out as the result of an Executive Branch victory over much opposition, or it can be modified as an outcome of negotiations. Congressional dominance in the field has been held so long that it seems impossible to undo the past until confidence in the education community can be rebuilt and distrust in the Congress can be dissipated. Since education has not been a deeply partisan issue on the Hill since 1966-67 (indeed, there has been an extraordinary degree of bipartisanship), a change in parties in the White House would not in and of itself accomplish the latter. Confidence of the education community can, in part, be won with increased federal funds for education. Proposals advanced by persons in whom both the Congress and the community do not place trust or which have the effect of cutting appropriations have generally been rejected without a consideration of their merits and will probably continue to be rejected.

The surest approach would be to offer a complete reorganization in connection with a cabinet-level position for education, a major increase in funding, and the appointment of persons who reflect the broadest possible views of local authorities and practitioners, and individuals from state colleges and universities in addition to the "university elitists" of the Ivy League and California.

Short of that ideal, which nevertheless should be attainable, a long-range policy statement, accompanied by a series of interim measures designed to improve existing education programs as well as the policymaking atmosphere, could be used to lay the groundwork for new approaches to federal education policy.

Given the generally low priority of education in Washington, neither the Executive Branch nor the Congress will be willing to devote the energy and money necessary to achieve the "surest approach." Therefore, a series of interim steps over the first two years, with a view toward establishing a new national policy by 1980, could be initiated.

The first interim steps should include the following:

1. Studies to determine the extent to which:

a. existing laws interfere with efficient administration of existing programs and ought to be modified;

b. the existing organization of the Education Division should be reorganized and responsibility centralized; and

c. present personnel speaking for the Education Division have been involved in the conflict between the Hill and the agency and would be involved in any reorganization.

2. Begin the recruitment of new people whose talents and training are such that the agencies could begin with fresh faces and a clear atmosphere, unbeleagured by prior acrimony.

3. Based on the studies conducted under item (1) above, submit legislation to the Congress, as an interim measure but with high priority, designed to lay the groundwork for major policy decisions to be made by 1980 and to be implemented in due course thereafter. At that time, the public will be ready to invest the necessary money in public education. The Administration must anticipate public opinion and put in place a rational education policy for all American citizens.

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Clarifying the Federal Role by Strengthening The Intergovernmental System

Samuel Halperin

Where We are Today

The federal government's major involvement in education dates only to 1963, and more particularly to Lyndon Johnson and the Great Society. Yet, as several contributors to this anthology argue, and many observers concur, the federal government is today attempting to do far too much in the field of education, there is no clear sense of federal priorities, and the burden of federal regulation and administration has become excessive. Indeed, the real worth of Washington's contribution to improved education is very much in question.

The exact number of federal education programs is open to dispute—at least 400 operated by some 70 different federal agencies. The 1977 federal budget projects almost $10 billion to be spent for "programs which are primarily education." Congress will add at least $1 billion to President Ford's budget. Of this, the U.S. Office of Education is responsible for approximately 120 programs with a budget in FY 1977 of about $9 billion. (In sharp contrast, USOE's budget in 1963 was only $653 million.) Nevertheless, federal funding of education is relatively small: seven percent of elementary and secondary spending, 12-25 percent of total higher education spending, mostly in student financial (not institutional) aid.

As a result of the legislative successes of the Great Society, it has become fashionable and relatively easy to pass new educational bills. Both the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor are overwhelmingly sympathetic to education and disposed to authorize more funding and a variety of new programs. In the face of Republican administrations perceived as anti-education, the Congress has resisted most efforts to oversee, set priorities, rationalize, consolidate or otherwise streamline the burgeoning federal education presence.

On the appropriations front, a coalition of education groups in the Committee for Full Funding of Education Programs has been relatively successful in raising the inadequate budgets proposed by Presidents Nixon and Ford. Both the Congressional appropriations and budget committees have also been relatively favorable to education spending. In the past seven years, about $5

billion has been added to Presidential budgets, in some instances by overriding vetoes. Yet, these Congressional increases have barely kept pace with inflation and the rising costs of education. Stated another way, education had a large, one-time jump in federal support in 1965-66 and has only maintained its relative position since then.

In my view, Congressional education committees today increasingly over-legislate and over-regulate. They are difficult to check by anyone; education groups either get what they want or, conversely, feel hostage to a few activist pro-education Congressmen and their powerful staffs who determine what is needed in education and then construct successful coalitions to push the legislation through. This is true even when public and educator demand for new legislation is modest at best.

Countervailing and rationalizing forces are generally weak and/or ignored. The states, HEW, USOE, and the Education Commission of the States are generally not major factors in education policymaking. The states seem most intent on maximizing their share of public funds, and several individual states have opened offices in Washington "to get their share," rather than to resist or reshape federal policy.

Non-educational power elites (e.g. business) pay scant attention to education's legislative affairs, viewing them as a minor league affair, despite the very large portion of state and local tax money consumed by education.

In this context, most current Washington conversation about policy really concerns preserving and expanding existing program authorizations, expanding funding for them, and enacting politically sexy new programs and giving these new advocates a "hunting license" for future federal appropriations.

Conversely, too little concern is expressed about several important matters. How, for example, are existing programs working (legislative oversight)? Should they be consolidated, terminated or replaced by more effective delivery systems? What about the relative priorities among programs and whether proposed new enactments might not turn out to be financially competitive with existing programs? Are the burdens and responsibilities imposed upon the responsible bureaucracies at all levels—federal, state, local—administratively feasible? Can the bureaucrats manage all of the mandated reports, monitoring, and compliance procedures?

Of overriding concern is the effect of policies and programs upon the goals and purposes of education. Everything seems to be considered *ad hoc*. What passes for priorities are mostly politically, not philosophically, derived. There is little sense of the relationship of one program to another, of one level or segment of education to another, or of education to the rest of society. Similarly, and equally important, there is little attention to the appropriate and inappropriate roles of the various levels of government in education. Everything is fair game for federal intervention. Consequently, the responsibility of lower levels of government is increasingly unclear, and there is widespread confusion about who is accountable for solving educational problems.

In sum, the present federal education scene shows an inconsistent mix. There has been a proliferation of federal programs and agencies even though

Washington has had a relatively minor financial role. The Congressional authorizing committees have been pro-education, and the budget and appropriations committees have been sympathetic even when they have not been lavishly generous. To this should be added the increasingly visible but highly fragmented education "community" of more than 100 often competing national associations whose major agreement is that federal spending should be increased and federal regulation reduced. (Increasingly, however, some groups seek to use federal power to compel a particular type of behavior at the state and local levels—which in turn leads to more federal regulation and complexity.) In an era of limited resources for education, this type of policy process is unlikely to meet critical national needs or to serve vital, if politically weaker, educational interests.

What Is To Be Done

Reform can only come about in a spirit of cooperation and partnership among federal and state governments and the educational community. Insofar as federal initiative is desired, it can only come from a national administration that demonstrates that it *cares* about children and teachers, about the special needs of the handicapped and the disadvantaged, about improved teaching, about the critical financial problems of state and local educational authorities. Attitudes and policies that center solely on improved programmatic management without compassion and concern for education will evoke only entrenched and self-righteous opposition to what are perceived as attempts to reduce federal aid to education.

Secondly, both our national and our educational leadership should actively and jointly foster processes to clarify and focus the federal role in education. In my opinion, this should proceed from the political and educational assumptions that federal financial aid might well deserve expansion, but that it must be more carefully targeted on a smaller number of attainable objectives and effectively managed so as truly to help its intended beneficiaries.

Thirdly, every action—federal, state or associational—should proceed with the deliberate intention *to strengthen the intergovernmental system in education*. The partners to dialogue should be clear that, in *most* areas of education, the federal role is and should be secondary to that of the states.[1]

I have already suggested (see pages 20 to 22 above) six specific ways in which the intergovernmental system in education might be strengthened. In addition, the following should be considered:

1. A quasi-governmental Advisory Commission on Intergovernmental Relations in Education, to advise the President and the Congress on those

[1]A few selected roles are likely to be widely accepted as primarily federal in character, e.g. the protection of constitutional rights (non-discrimination in education), educational research and development, maintaining the excellence of major knowledge centers and research universities, international education, access to educational opportunity, among others. See also pages 57-58 below.

priority actions which ought to be undertaken by the federal government (and, conversely, which ought not.)[1]

2. At a minimum, regular consultative relations, now absent, should be inaugurated among the federal Executive Branch, the state governors and federal and state legislative representatives regarding the future of educational policy in the nation.

3. Finally, the President should seek the most vigorous leadership possible for a revitalized U.S. Office of Education (or in time, perhaps, for a Department of Education). That leadership should be conspicuously charged with implementing the priorities expressed above.

Worthy of serious consideration, too, is Senator Abraham Ribicoff's proposal to create a National Advisory Commission on Education. Because this proposal is not readily available and because it is more thoughtful and extensive than similar suggestions, I am including it below. (The original text is contained in S.1059, 93rd Congress, 1973, and in Senator Hubert Humphrey's more recent bill, S.754, 94th Congress.)

National Advisory Commission on Education

Sec. 10. (a) There is hereby established a National Advisory Commission on Education composed of fifteen members appointed by the President, by and with the advice and consent of the Senate from among individuals—

(1) who are familiar with the educational needs and goals of the United States,

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals,

[1]Note the following recommendation of *The President's Commission on School Finance* (McElroy Report), 1972, p. xxii:

> *A. Creation of a National Educational Policy Development Council*
>
> The work of this Commission and similar groups has highlighted the need for a continuous and concerted approach to the study of national policies in education. National needs and goals should be clarified through a combination of local, State, and national interests and set forth from time to time at the Federal level. The President's influence on educational policy has increased markedly in recent decades and his role is likely to expand further in the future. To assist him in dealing with issues of national educational policy and to give appropriate visibility to education as a fundamental interest of the nation and its people, we propose the establishment of a National Educational Policy Development Council.
>
> *The Commission recommends the establishment of a National Educational Policy Development Council, with membership drawn from the broad spectrum of American society, to advise the President on national educational policy; to assess the relationship between education and major social, cultural and economic problems; and to give continuing attention to education as a fundamental national concern. The scope of this council should include all levels and types of education.*

(3) who are familiar with the administration of State and local educational agencies and of institutions of higher education, and

(4) who are representative of the mass media, industry, and the general public. Members shall be appointed for terms of three years, except that (1) in the case of initial members, as designated by the President, five members shall be appointed for terms of one year, five members shall be appointed for terms of two years, and five members shall be appointed for terms of three years, and (2) any member appointed to fill a vacancy shall serve the remainder of the term for which his predecessor was appointed.

(b) The National Commission shall—

(1) review the administration of, general regulations for, and operation of Federal education programs;

(2) advise the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the renewal of appropriate agencies, institutions, and organizations of the Nation in order to meet those needs and achieve those goals;

(3) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(5) consult with Federal, State, and local and other educating agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(B) determinations of priorities among unmet needs and national goals; and

(C) specific means of improving the quality and effectiveness of teaching, curriculums, and educational media and of raising standards of scholarship and levels of achievement;

(6) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education-related organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education;

(7) conduct, and report on, comparative studies and evaluations of education systems in foreign countries; and

(8) advise and assist in the coordination of all Federal educational advisory committees, councils or commissions.

(c) The National Commission shall make an annual report, and such other reports as it deems appropriate, to the President and to the Congress, concerning its findings, recommendations, and activities.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section 448 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, the National Advisory Council on Educational Research and Development and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its functions under this subsection.

(e) The National Commission is authorized to engage such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS-18 under section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) The President shall appoint the National Commission not later than thirty days after the date of enactment of this act.

A third concept worthy of review is an unimplemented provision of existing

law, the Councils on Quality in Education (contained in Sec. 541 of P.L. 91-230; 20 U.S.C. 868):

Part D—Councils on Quality in Education
NATIONAL AND STATE ADVISORY COUNCILS

Sec. 541. (a) (1) There is hereby established a National Council on Quality in Education (hereafter referred to as the "National Council") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

(2) The National Council shall—

(A) review the administration of, general regulations for, and operation of the programs assisted under this title at the Federal, State, and local levels, and other Federal education programs;

(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achieving those goals;

(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this title;

(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(ii) determinations of priorities among unmet needs and national goals; and

(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement;

(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

(3) The National Council shall make an annual report, and such other reports as it deems appropriate, on its findings, recommendations, and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

(4) In carrying out its responsibilities under this section, the National Council shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, and such other advisory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to cooperate with the National Council in assisting it in carrying out its functions.

(b) (1) Any State receiving payments under this title for any fiscal year may establish a State advisory council (hereinafter referred to as "State council") which if it meets the requirements and has the authority specified in this subsection may receive payments pursuant to paragraph (7). The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the State legislature), by such agency.

(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to, persons representative of—

(A) public and nonprofit private elementary and secondary schools;

(B) institutions of higher education;

(C) areas of competence in planning and evaluating education programs, and the assessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

(D) areas of competence in dealing with children for whom special educational assistance is available under this Act.

(3) The State council shall—

(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of

criteria for approval of applications for assistance under this title;
(C) advise State and local officials who have a responsibility for education in the State with respect to the planning, evaluating, administration, and assessment of education in the State;
(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this title by local educational agencies; and
(E) evaluate programs and projects assisted under this title.
(4) Any such State shall certify the establishment of, and membership of its State council to, the Commissioner.
(5) Such State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.
(6) Such State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.
(7) There are hereby authorized to be appropriated for each fiscal year such sums, not in excess of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this title, as may be necessary to carry out the provisions of this subsection.

(20 U.S.C. 868) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 148.

The proposed National Advisory Commission on Education or the Councils on Quality in Education and the other suggestions advanced earlier are certainly not offered as immediate cure-alls for the afflictions of the ever more complicated intergovernmental system of educational policymaking. And it is unlikely that anyone's pet solution will be the only helpful one. But the beginnings of wisdom in this field may be the discovery that the whole of the complex mosaic of federalism in education bears only slight resemblance to its component parts. Above all, reasoned debate and conscientious consideration of alternatives are required to help ensure that federalism truly works in the third century of the American commonwealth.

EA 009 036

ED132728

A New Style of Federal Aid for Elementary and Secondary Education

Don Davies, Miriam Clasby, William Burges

The *public* expects its national leadership to improve the delivery of federal education assistance by improving program management, eliminating duplication of effort, cutting red tape and requiring stronger justifications for budget requests. In other words, the challenges facing the President and the Congress far exceed what can be achieved simply by granting what *educators* want most: increased funding, cabinet-level departmental status for education, and reduced federal regulation. Indeed, establishing a better-funded, higher status federal education agency in advance of a basic shift in the *style* with which the present federal delivery system seeks to assist state and local education agencies might well be a mistake that would deepen many of the existing flaws in that system.

Bureaucratic reforms to achieve greater efficiency, accountability, and clearer goal orientation *are* important. In the absence of fundamental alteration of the federal education delivery system, however, those steps will not help to correct many of the present inadequacies and conflicts in the schools. Effective expenditures of the federal education dollar require nothing short of a *redefinition of the federal role and style of intervention*. With such a redefinition, for example, it becomes possible to speak concretely about the role of the public in public education and how it is to get what it pays for.

Nearly all efforts to restructure the federal educational delivery system since 1969 have failed. One exception was the creation in 1972 of the National Institute of Education (NIE). But even this sorely needed agency has had a rocky and uncertain history. Many programs of research and development remain scattered in other agencies, and funding for the NIE remains low. Less money is spent there than in NIE's predecessor research and development programs.

In 1969-70, an effort by the U.S. Office of Education to package school system and support programs was squashed by Congress at the urging of key educational groups. Another, more ambitious Executive Branch plan called "Educational Renewal" was also killed because Congress believed it required new legislation and saw it as example of Executive Branch usurpation of

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Congressional authority. A Congressional initiative to consolidate several programs succeeded partially in the Education Amendments of 1974, but it represents only minor change. Indeed, many educators feel that the new consolidated paperwork exceeds the old! President Ford's limited consolidation or block grant proposal in 1976 was hardly taken seriously by the Congressional committees or most of the education groups in Washington. A recent consolidation proposal by Senators Domenici (*Rep.*, N. Mex.) and Bellmon (*Rep.*, Okla.) is proving of interest to educators who are extremely wary of its conservative sponsors and the near-miss in the Republican Party's 1976 platform which almost called for the termination of most existing federal aid to education.

Overall, the Nixon-Ford initiatives were also seen by minority communities as anti-minority and anti-poor. They were greeted with hostility by the Democratic Congressional committee leadership which authored the programs in the first place. They were viewed as efforts to cut spending and services without regard for human consequences. Their perceived style was one of dismantling programs, downgrading the importance of education, pleasing the conservative elements of the country at the expense of the poor, and substituting bureaucratic tinkering for compassion and commitment.

To avoid repeating these errors, what is needed is a new style and spirit that, at the same time, produces a better format for the delivery of federal assistance.

Developing A New Style of Federal Leadership

A new style of federal leadership in education must be based on a series of commitments which shape its spirit. Although precise formulation calls for careful scrutiny and systematic discussion of "appropriate federal responsibilities," the following are suggested as major ingredients of the analysis and subsequent federal commitment:

1. The need for more effective *public participation* in educational decisionmaking at all levels.

2. The importance of strengthening the *planning and management capacity* of state and local education agencies.

3. The paramount importance of the *responsiveness* of each local school building to its own *community* and of each sub-district and district to its diverse communities. Federal or state programs of funding or educational improvement that undercut such basic community-school responsibility are, in the long run, counterproductive.

4. The desirability of a pluralistic and diverse educational system — better public and private schools with diversity in content and styles of teaching, offering a wide range of choices to students and parents. This entails a specific rejection of the "one best system" mentality that has long dominated the thinking of many educators.

5. The right to equity in services and treatment for all students.

6. The strengthening of primary schools at the state and local levels.

Transforming current federal educational practice along these suggested lines involves two main tasks:

1. *Streamlining existing patterns of national intervention so that priority emphasis is unmistakably placed on those functions appropriate to the federal role* (for example, working with Congress and state political and educational leadership to develop an informed consensus about national interests and setting priorities related to them; safeguarding constitutional rights, e.g., equality of opportunity; monitoring the effectiveness of its own programs; stimulating and sponsoring research and development efforts on better teaching and learning).

2. *Supporting and increasing the capacity of state and local government and of citizens in general to make the system more responsive to their needs* (for example, increasing efforts to improve the planning and management capacities of state and local education agencies, citizen organizations and other agencies involved in educational policies and programs; stimulating citizen participation in educational decisionmaking; communicating and working with other "lower" levels of government as an equal partner in a joint enterprise of making schools more responsive to their clients; identifying promising practices in the states and facilitating their application to new and appropriate settings).

Adopting such an approach can capitalize on the lessons of the sixties, moving toward new and more effective forms of "creative federalism" or strengthened intergovernmental relations. The difficulties, of course, are great. Entrenched interest groups may find the approach threatening. Confidence in state and local education agencies is low in the public *and* in the Congress. The Congress will not be eager to overhaul its handiwork of recent years. The public is confused and uncertain, undermined by popular myths and scattered research leading to unwarranted generalizations about potential educational effectiveness. An emphasis on process eliminates hopes for quick pay-off and statistical measures of sure-fire success. Nevertheless, the approach suggested is one that demonstrates belief in the vitality of American political structures and conviction about the capabilities of the American people.

Steps in Implementation

A new style of federal leadership might be built around the following activities:

1. *Initiate a new program of grants to states for improving both state and local capacity for planning and management (including systems of comprehensive planning, accountability, and public participation).*

The grants should be made with no strings and no advance proposals, but with the requirement that state and local agencies report annually on the ways that the money was spent and the results that have been recorded. The form to be taken by each state or local agency should not be predetermined. The results of all federally-funded efforts should be carefully documented and after four or five years a judgment should be made on whether further investment is warranted. A specified portion of the funds should be guaranteed to local agencies, but the nature of state-local relationships in the program should be deter-

mined by negotiations within a state. Technical assistance and interstate collaboration could also be built in.

2. *Initiate efforts to replace most existing categorical programs.*

This could focus on providing better services to three target populations which have been, and ought to be, the primary recipients of the major and most promising efforts of programs funded under the Elementary and Secondary Education Act to date: the poor, the handicapped, and children whose primary language is not English. The grants should be administered by the SEAs with a required state plan. The only federal requirements should be procedural: a) specific mechanisms for meaningful public participation at the state, local district, and individual school building levels; and b) clear reporting requirements to assure that the target populations are primary beneficiaries. The details of this program, including funding formulae, must be developed with the close collaboration of relevant Congressional committees, state political leadership, representatives of SEAs and LEAs, and representatives of the public, especially the target populations to be served.

3. *Increase support for educational research and development by about $30-50 million per year until a level of about $500 million is reached.*

At the same time, all educational R & D activities currently scattered in such federal agencies as the U.S. Office of Education, National Science Foundation, Office of Child Development, and National Institute of Mental Health should be consolidated in NIE. Perhaps one-third of the total NIE effort should be in the form of support to build and maintain the R & D capacity of SEAs and LEAs. R & D activities do not compete at all well against operating requirements at the state and local level. Federal dollars and technical assistance are both appropriate and critical.

4. *Initiate a federal-state dissemination and technical assistance program patterned after the Agricultural Extension System.*

This suggestion revives a plan developed in USOE and aborted in the Nixon Administration. If R & D is to have adequate pay-off, extensive new outreach and dissemination efforts are essential. Local and state authorities will not support the idea of a vast army of federal bureaucratic extension agents, but they might support a federal-state program built on a matching grant basis (initially 90-10, moving gradually to 60-40). The program should specifically include building the capacity for providing information and assistance to citizens and community organizations and agencies as well as to educators. Individual agents would function as principal disseminators and technical advisors within a support system analogous to the extension stations. Such a program might require about $100 million at the outset, moving to about $500 million (roughly comparable to the R & D budget).

5. *Provide information and support for citizen organizations to monitor and evaluate state and local programs aided by federal dollars.*

To date, most of the efforts to protect the interests of minority communities or of handicapped children and their parents have been in the form of

legislative earmarkings, an array of categorical programs, elaborate and specific guidelines and regulations, and expensive external evaluations. Most of these efforts have not worked well. The best protection that citizens can have is to do their own monitoring and to develop their own competence for participating in planning and evaluating school programs. The federal government can strengthen such efforts to legitimate public participation and, at the same time, increase its quality by providing direct financial support and indirect technical assistance to state and local citizen groups.

6. *Stimulate and provide financial support for a nationwide dialogue about the substance and governance of education.*

In order to both involve and educate the public (parents, students, and other citizens), incentive grants should be provided for a grass-roots discussion and planning effort, beginning at the school building level. It is vital that this process include, but not be dominated by, school people and university experts. The topics of the nationwide dialogue could include: purposes and priorities for schools; ways in which schools and other health and human service agencies should be related; how schools can best be governed; what responsibilities can best be exercised at each level (classroom, school, sub-district, district, region, state, nation); what new needs emerge for students who will live most of their adult lives in the twenty-first century. The Education Commission of the States might play a key role in inaugurating such a nationwide dialogue.

Strategies for Proceeding

The above six items constitute major elements for a new and more effective style of federal assistance to schools. But detailed plans must not be developed unilaterally by "elites" in Washington alone. Rather, the Administration should assert its intention of developing a new format, provide guidelines that clarify purposes, and offer a planning framework. Then it is possible to engage in an extended process of planning and negotiation over a period of six to 12 months.

All of the legitimate special interest educator and citizen groups, state political leadership, Congressional committees and staff, etc. must be taken into account and brought into the discussions. Widespread public participation can help to assure grass-roots support for the final plan when necessary legislative action is needed and when the ideas are ready for implementation. The process which is used will be every bit as important as the final product and will, by itself, communicate a new and liberating spirit to those interested in school reform and the nurturing of popular democracy.

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Both by tradition and constitutional interpretation, the federal government has a *limited role* in elementary and secondary education. Within these limits, however, there is great potential for leading in the development of a client-oriented approach to the delivery of educational services.

The mission and accountability of federal education efforts can be

sharpened and strengthened in new ways to energize its state and local education constituencies and to help citizens make the intergovernmental system work for them. The federal government can facilitate the development and extension of promising practices at all levels without either dictating to or otherwise making schools less responsive to community needs. Moving towards this style of leadership is a necessary condition for developing a constructive federal presence and for affirming the central role of the public in public education.

ED132729

EA 009 037

Sorting Out The Roles: Federal, State and Local Responsibilities in Education

Education Commission of the States

As previous papers in this anthology have made clear, much of the current "crisis in the capitals" is a result of confused and contradictory expectations about the appropriate responsibilities of the various levels of government. Complaints about the present situation are abundant, while efforts to seek consensus on a more satisfactory set of relationships are exceedingly rare.

As part of our effort to stimulate constructive discussion, we include the following excerpts from "Intergovernmental Relations and the Governance of Education," prepared by the Education Commission of the States for the President's Commission on School Finance (1972).

• • •

". . .it is difficult to separate the responsibilities of each level of government and indeed, under the concept of the new federalism, it is undoubtedly undesirable. The President's Commission on National Goals pointed out that federalism is a plan for sharing the functions of government and not a plan for separating them. The new notion of federalism calls for a sharing of the responsibility of carrying out an important public purpose and serving an important public interest which all three levels have in common and which none could achieve as well alone without the cooperation of the others. Despite the high degree of interdependency under the concept of new federalism, it is concluded that certain responsibilities can be assigned as "prime" responsibilities to each level.

The responsibilities of the *federal government* should be to:

1. identify national goals and areas of critical need in education;

2. provide substantial educational funding to the states in the form of general aid so as to make educational services more nearly equal between and within states;

3. consolidate the many federal categorical aids into a few "block grants" consistent with the areas of critical need;

4. complete the annual appropriations process in time to permit effective planning by state and local education agencies;

5. assume primary responsibility for financing and coordinating research and development; and

6. develop and help finance, in cooperation with state and local education agencies, a system of educational data and information collection.

. . .It is also concluded that *state responsibilities* are to:

1. maintain a free public school system;

2. set goals and objectives and provide appropriate evaluation of the accomplishments of these goals;

3. require attendance at an educational institution of all children and youth between the ages of 6 and 16;

4. insure that no child will be denied admission to any public school because of his race, religion, or ethnic origin;

5. insure that all elementary and secondary schools maintain a program of instruction designed to meet the varying needs of all children and youth in the state;

6. encourage innovation and development of new educational programs;

7. provide for a uniform, comprehensive system of educational data and management information;

8. provide improved evaluation and planning competency at the state level;

9. assure adequate financial resources without excessive local tax burden; and

10. complete the annual appropriation process in time for effective planning by local education agencies.

. . .It can be concluded that *local responsibilities* which are elements of the operational aspects of education are to:

1. employ, assign and dismiss staff and negotiate contracts concerning salaries and employee benefits under general procedures established by law;

2. plan, design and construct educational facilities;

3. levy local or regional taxes to supply part of the operating and facilities costs (although if Serrano vs. Priest is upheld or if the concept of full state funding is adopted, this will be a minimal function);

4. develop with local citizens the educational goals and objectives for each school area or region; and

5. establish and implement procedures for periodic and systematic review of the scope and effectiveness of its education program, including evaluation of achievement versus preset goals and objectives.

It is further *recommended that as a method of the identification of national goals and areas of critical need, the President's Commission investigate the feasibility of implementing the formation of a national committee on educational policy development. . .*"

ED132730

EA 009 038

Federal-State Educational Relationships by the 1980s; Some Alternatives for Consideration

Robert H. McBride

In 1959, one of the nation's most respected leaders in educational administration, the University of Chicago's Roald F. Campbell, described educational policymaking succinctly:

> "The national government pretends not to make policy, the state governments will make no more policy than they must, and most local governments cannot make adequate policy."

A lot of things have happened since John Gardner's observation of the mid-1960s:

> "The plain truth is that many of the states have not yet developed strong, effective and well staffed state education agencies and are not yet equipped to provide the kind of leadership in education that our society needs today."

During the last five years, in particular, many states have taken specific steps to assure equal educational opportunity for children, as well as several categories of adults, with social, physical, economic and/or behavioral disadvantages. By 1975, for example, all but two state finance allocation formulas explicitly recognized the high cost of educating the handicapped. Extra compensatory educational aid was allowed in 40 percent of the state formulas (covering nearly two-thirds of all students). Fifteen states had already provided special bilingual assistance from state funds. Funding allocations with much improved equity between poor and more affluent school districts are in place in at least 18 states. Progress toward achieving equity in equalizing financial effort has been slowed, however, by the shaky condition of state finances. Unfortunately, too, several federal educational aid programs perpetuate this lack of equality, thereby helping to subvert the state's movement toward equity. In a rational intergovernmental system, federal aid programs should encourage, not

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This concept paper was prepared for the National Conference of State Legislatures, National Governors Conference, Education Commission of the States, Council of Chief State School Officers, and National Association of State Boards of Education.

discourage, the continued broadening of the state finance systems which lead toward greater equity.

In the decade since the greater expanded federal commitment to public school education began, federal appropriations have increased less than $3 billion. Over the same period, state and local revenue increased by $34 billion. Thanks in no small measure to federal funding under the Elementary and Secondary Education Act (ESEA) and other major grant programs, most state education agencies (SEAs) have moved away from almost sole reliance on minimum standards toward sophisticated systems for educational assessment and systematic evaluation of new programs; both lead to a major emphasis on accountability. Today, long-range planning and serious evaluation of alternatives provide much improved policy guidance and draft legislation for governors, legislatures and state boards of education. By delegating essentially all operational responsibilities to local or regional cooperative districts, SEA personnel can concentrate on state-level leadership rather than maintenance functions. Although still not a large effort, research and development have moved far from the old "bean-counting" days. And last, but vital to all the other improvements, higher salaries have allowed a major upgrading in the quality of SEA professional personnel; no longer are the SEAs staffed largely with individuals from rural school districts.

State Education Systems By 1980

In spite of some inflation-caused delays in execution, the states continue to move forward full and responsible leadership in public education. From steps already taken and courses of action now being adopted, we present a brief outline of what a majority of states will have achieved in modernized educational leadership by about 1980:

- Without interfering with real local school district autonomy, most states will have strongly established and enforced minimum achievements in basic skills, such as reading, arithmetic, and citizenship. Some will have expanded this to include the so-called modern "survival" or "coping" skills.
- The outcomes from a growing number of more sophisticated state assessment systems will provide specific information (1) to decisionmakers on actual needs of the school and (2) to teachers on where instruction must be improved.
- By much enlarging the number of educational options and further improving our programs for children with special needs (such as the handicapped), most students in a majority of schools will have available special programs tailored to their needs and/or parents' desires.
- School people, by their actions, will further demonstate that schooling is only one part of education. Young parents will be trained in schools to improve that most crucial learning period — the first three years. Schools will provide learning resources for parents of young children, temporary dropouts, adults and senior citizens as the vital local link in "the learning society."

- Special state and federal resources will provide vital stimulation to a most pressing problem — improving the productivity of education by the systematic modernization and upgrading of content and process skills of educational professionals. Existing resources will be reallocated to provide for this strengthening of the self-renewal capabilities of educational institutions.
- Last but not least, further training for and experience by those most concerned and involved will lead to more stable and equitable labor-management relations which, in turn, will fit the school's unique participative-collegial structure better than the ill-fitting industrial collective bargaining model.

It must be frankly admitted that, under our federal system of state autonomy, not all states can be expected to advance uniformly to meet these levels. But it is now evident that at least half the states, those which enroll 65-75 percent of the nation's public school students, will be largely in this position by the beginning of the 1980s.

The Second Decade - Time for Reflection

Major direct federal aid to education has been in place for just eleven years. It is time for a reasoned analysis of where we have been, where we appear to be heading, and whether our direction is changing. And this should be done outside the day-to-day crises on new and renewable federal education legislation.

In reviewing how to make federal aid to education more effective, makers of public policy would consider at least five broad methods of improving the current federal assistance programs:

- Eliminate—or at least radically reduce—the number of special limited-purpose grants by "grants consolidation," sometimes referred to as education or special revenue-sharing.
- Integrate the federal categorical aid programs into a comprehensive state educational support system so that federal funds pay part, or even most, of the "excess cost" for special groups of pupils and citizens singled out for assistance by Congress. This method would be available to states that met certain standards (e.g., varying federal-state relationships depending on the state's fiscal programmatic abilities).
- Abandon the many mandated federal educational programs and concentrate all appropriations on fully funding three or four major programs.
- Radically simplify by both law and regulations the administration, evaluation and reporting requirements under existing federal programs.
- Some combination of the above, such as 90 percent of federal funding to three or four major programs, with the balance of small programs consolidated and funded under a mechanism like the Special Programs Act.

Grants Consolidation

Conceptually, grants consolidation could be an attractive solution to the objective of better meshing federal aid to education into a logical, coherent

program of financial support for public education. But in several attempts to date, many undesirable and extraneous additions marred the concept. Both the education revenue-sharing proposal of 1971 and the Better Schools Act of 1973 were looked on, with just cause, as a way to reduce federal aid rather than a method to provide more effective assistance to schools.

The most recent attempt—the proposed 1976 "Financial Assistance for Elementary-Secondary Education Act" in HR 12196—was more carefully developed than previous attempts at grants consolidation. It was reviewed carefully with many organizations and at least partly revised as a result. However, the pitched battle with the Office of Management and Budget to get funding authorization (not appropriations) equal to the aggregate of the programs consolidated does not auger well for a *real* change. Testimony on the bill by cooperating state-level organizations brought out other practical problems which are not cited here. Rather, we cite the characteristics needed for a successful "grants consolidation":

- Appropriations (not just authorizations) *at the absolute minimum* equal to the aggregate funding of programs consolidated, plus inflation, e.g., no cut in real services.
- Insuring state-local maintenance of effort (e.g., not replacing state-local funds with federal monies which provide no assistance to children, only to taxpayers).
- Avoidance of crippling legislated limitations on allocations to special groups, a practice which has made a mockery of previous final grants consolidation proposals. This includes an unreasonable "cap" on administrative costs which will prevent adequate accountability.
- Simple, clear and timely regulations which allow effective (rather than stylized) state plans plus sufficient flexibility to meet diverse needs of the states within broad federal guidelines.

Effective Meshing of Federal Categorical Aid With State Finance Support Systems

To its great credit, Congress has acted on its concern for the educationally disadvantaged and handicapped, bilingual, as well as for those with special needs—those whose native language is not English, adults lacking a basic education, recent immigrants and others. The general reaction to perceived nationwide needs has been to add categorical programs to stimulate state and local action. The major problem in viewing such needs as unique federal concerns is that a large number of conditions and administrative regulations have been imposed, including requiring accounting separate from normal school programs.

To make an analogy with business, the fragmented categorical approach is like trying to keep separate costs on parts of a machine and evaluating how effectively the parts perform, independently of how the complete machine operates.

In addition, current federal education statutes and regulations seem to be targeted to the lowest common denominator, that is, the conditions, limitations

and regulations for federal programs designed for the most ineffective, incompetent and even venal state, local and postsecondary agencies.

Consideration should be given to the authorization of more flexible program administration to allow varying forms of relationships between the federal government and the states to reflect state program initiatives and administrative capabilities. At present, federal programs do not recognize the considerable variations among the states and, with few exceptions, most categorical programs are not designed to reinforce and encourage broader state aid structures.

A method of federal aid which could be both beneficial in administration and politically acceptable would be the establishment of reasonable performance standards for states which would trigger a kind of consolidation of federal aid to them. If a state has programs addressed to the same objectives as a federal category or provides funds for the same objective through its state aid formula, there is a valid rationale for meshing federal aid with state funds for that purpose. In states which have not taken such initiatives, federal aid programs could continue on the current categorical basis.[1]

To be more specific, the weighted pupil concept of educational need, now basic to almost all state aid formulas for kindergarten, elementary and secondary levels, could be expanded to cover more special groups. For instance, the 22 weighted pupil units cited by the National Education Finance Project would be expanded to include bilingual, refugee and Indian children and embrace several additional types of handicap. If a state legally recognized its responsibilities to these special groups, Congress would allow federal aid to supply a part or even most of the cost differential for students with special needs. Thus, categorical aid is fitted into a rational state-federal educational support system, eliminating costly and cumbersome separate federal fiscal and programmatic requirements.

As part of this effort to achieve greater flexibility, we propose broader use of periodically-updated long-range state plans and/or contractual agreements to meet certain federal needs for accountability. Once the agreement or plan was agreed to by both parties, the nitty gritty, detailed regulations and separate reporting would be replaced by periodic, perhaps biennial, assessments of performance against measurable objectives in the plan. As a small example, existing local or state parent advisory groups could be certified as the equivalent of the advisory councils specified by law. Of course, the state must have demonstrated adequate audit capabilities and an allocation process which operates in the sunshine, encouraging inputs from parents, students and citizens representing all kinds of young people and lightly-educated adults.

Concentrating on a Few Major Programs

One problem with the dozens of federal education programs is the disappointing levels of actual appropriations versus those of authorization, which more nearly measure the need for resources. Since a minimum "critical mass" appears necessary to solve many acute educational problems, a more productive

[1]Similar to legislation proposed by Senators Bellmon and Domenici (see p. 52).

use of federal resources might be to *fund adequately a few major programs*. One possible formulation might run along these lines:

	FY 76 Appropriation	Possible Funding
	(millions of $)	
Basic Education (ESEA Disadvantaged and Follow Through)	2,109	2,300
Education of the Handicapped	246	1,500
Vocational/Career Education	549	800
Impact Aid - "A" and Other	338	400
"B"	340	—
Other Programs	844	—
	4,426	5,000

Radical Management and Reporting Simplification — Existing Programs

Although it flies in the face of almost all precedent, it is theoretically possible to radically simplify and thus improve program effectiveness by significant changes in law and a massive overhaul of regulations. Several ongoing activities might assist in this effort, notably the mandated Congressional study on education regulations and the work done by a committee of the Council of Chief State School Officers on educational data. In addition, efforts of states like Arizona to reduce federal program paper work would be helpful.

To make such a radical simplification work in the long term, several principles must be followed:

- The law must not be absolute and prescriptive in how the program is carried out to meet the perceived need. At the least, allowances for alternates or reasonable variance from prescriptive methods must be delegated to the federal administrator based on a state's demonstrated capacity and track record.
- In particular, the frequent addition of more detailed legislative prescriptions on re-authorization of major programs must be avoided. There are better methods of dealing with what appear to be a few errant programs than further hamstringing of states doing a good job.
- Regulations need to be shorter and not as all-encompassing as they are today. They should be designed to cover only the major problems, not every possible eventuality (which can better be dealt with by specific inquiries, promptly answered).
- Regulations need to be written in readable English, not 200-word sentences in federalese. One suggestion: use school personnel serving as one- or two-year interns, or fully involved state and local personnel, to actually write the final regulations. Attorneys and career bureaucrats would only advise and check for completeness.

- Last, but very important, assigned ombundsmen should carefully scrutinize all final regulations and challenge any sections not clearly required by law.

Conclusions

This brief presentation presents several options for making federal aid to the education of future citizens more effective. They are only illustrative and certainly not intended to be either absolutes or more than a start on rethinking the problem. We believe they will stimulate broad, long-range thinking on more effective federal assistance to the primarily state-local public education system which is unique to the United States.

As we move through the second decade of a heightened federal concern for public education, let us reflect—can the job be done better under the concept of a new flexible federalism? Our five cooperating state-level organizations encourage a start of the dialogue.

ED132731

EA 009 039

Block Grants or Categorical Aids? What Do We Really Want— Consolidation, Simplification, Decentralization?

Samuel Halperin

These are issues about which there has long been much more heat than light. One person's block grant is another's categorical program. There are simply *no* commonly agreed definitions.

Here are some background statements offered for the purpose of stimulating discussion, argument and, perhaps, a focusing of the areas of disagreement over values and objectives.

1. Most of the general membership educational organizations, as well as those representing institutions like state and local school boards, colleges and universities, prefer general aid or broad-gauge block grants, or what some still call "put it on the stump and run money." The goal of the National Education Association and most higher education associations is larger and unfettered federal funding, e.g. "one-third of all public school expenditures," or automatic formula payments for general institutional assistance, in the case of higher education.

2. In contrast, the goal of most relatively have-not groups and some professional interests is specific earmarking, or "categorical aid." The hallmark of the Great Society was to designate funds mostly for disadvantaged groups, e.g., Title I of the Elementary and Secondary Education Art for the educationally disadvantaged; bilingual education for ethnic minorities; Teacher Corps for urban and rural poor schools; Developing Institutions (half goes to black colleges); aid for physically and mentally handicapped children; Indian education; etc. As a rule, urban core centers and rural areas tend to be favored by distribution formulae in existing federal programs, since they have a disproportionately larger share of such special-population groups.

3. While there are dozens of narrow categorical programs, about 90 percent of all Office of Education funds flow to students in postsecondary education (Basic Educational Opportunity Grants, loans, work-study opportunities), to school districts in the form of general aid (the "Impacted Area" programs — Public Laws 815, 874), or in quite broad categories which many feel are tantamount to "block grants." Thus, vocational education, Title I of ESEA, and education of the handicapped allow considerable discretion to state and local

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authorities and are so broad in their applicability that they more nearly resemble block grants than the much maligned categorical aids. They are "categorical" mostly in the sense that they are targeted on particular beneficiaries, not on specific uses of the funds.

4. In recent years, Congress has consolidated a number of narrow categorical programs into broader block grants, e.g., in vocational education, teacher training, and (in Title IV of the Elementary and Secondary Education Act) school library resources and textbooks, guidance and counseling, innovative centers and services, state departments of education administrative services, etc. Those interests "consolidated out" of their previous special categorical status (e.g. school librarians, publishers, guidance counselors) usually complain bitterly that they are hurt relative to their previous status.

5. Because of recent Supreme Court rulings narrowing the range of benefits which may be extended to private and parochial students, Congressional actions to consolidate specific programs assisting both public and private schools may ultimately deny existing federal aid to nonpublic school students. Thus, private school interests generally favor retention of existing categorical aids, some of which benefit them more than they feel would be likely under a more generally framed statute.

6. Though Congress has done some consolidating of older and politically weaker categorical programs into block grants, it has by no means lost its appetite for new categorical programs. In recent years, it has created such categories as ethnic heritage, metric education, environmental education, women's educational equity, gifted and talented education, Allen J. Ellender Fellowships, etc. In addition, new legislation recently approved by the Congress includes: Teacher Centers, National Strategy for Lifelong Learning, Career Education and Career Development, Educational Outreach Centers, etc.

7. Particularly in higher education, there is a host of unfunded categorical programs on the statute books, put there by Democratic Congresses in the hope of better fiscal times and a more benevolent administration, for example: International Education, Networks for Knowledge, Strengthening Graduate Schools, Law School Clinical Assistance, and many others.

8. A recent emerging development in the debate over categorical vs. general funding is that several powerful educational groups now are much more concerned with *who* makes educational decisions than the form of the federal aid. Thus, for half a century it was an article of faith among major school groups that all federal funds should be channelled only through the state education agency. Increasingly, however, some teacher and school board leaders seem determined to minimize state agency direction and to seek federal formulae which funnel aid directly to local school districts. In part, their goal may be to make federal funds available for paying teachers' salaries under collective bargaining agreement. Conversely, many educational decisionmakers support existing federal categorical programs precisely because federal funds are now generally excluded from being the subject of teacher salary negotiations.

9. Other emerging actors in the struggle over the nature of federal aid include some state governors and legislators. They seek to assure that federal funds are consonant with their state priorities or, at least, do not undermine state planning, state equalization formulae, and the like. To date, these representatives of general purpose government have not been nearly as politically decisive as the major educational lobbies.

10. In recent years, too, the Congress has stripped the U.S. Office of Education of numerous discretionary authorities or special fund setasides originally designed in the sixties to give the Office nationwide leadership responsibilities in various types of policy areas. While part of this Congressional termination of categorical programs was inspired by OE's lackluster use of such authorities, much more was fueled by the Democratic Congress' distrust of the Nixon presidency and a desire to channel the Commissioner's discretionary grants into formula grants administered by the states and local school districts.

11. In general, while there is educator and public complaint about the "evils of categorical programs," the intensity of complaint is far greater about: A) inadequate funding levels (federal money used to be called "tainted money"; now it simply 'taint enough!;) B) the mounting burden of Congressionally prescribed regulation and prescriptiveness accompanying virtually all federal programs, categorical and block grant; C) the difficulties of coordinating so many federal programs, often administered by different human resource agencies, each having different and often conflicting criteria, distribution formulae, funding cycles, etc. These are the conditions considered most objectionable, more than the targeting of federal funds on specific clientele groups *per se*.

12. In summary, much of the contention and fiery rhetoric would lessen if there were more federal money for existing block grants and less categorical programs; if that money were made available in a timely fashion; if the Congress would simplify existing programs and attempt less regulation; and if an effective system of coordination and joint human services were implemented.

13. Most discussions of "grant consolidation" are confused as to whether their prime objective is *simplification* (eliminating duplication and red tape) or *decentralization* ("returning authority" to state or local decisionmakers). The former is considerably less controversial than the latter, especially since the original categorical programs were enacted by the Congress largely out of dissatisfaction with the performance of the states and localities *vis-a-vis* particular educational problems or clientele groups.

14. Since most existing programs do not specify in detail *what* is to be bought with federal money, the major Congressional battles are over *who* gets that money. Education grants have varying formulae and, consequently, different states benefit much more under some formulae than under others. Consolidation into block grants often produces net losses in total funds received by a number of states.

15. Thus, proponents of consolidation of "small, outdated, ineffective, or wasteful programs" must recognize the key political consideration that no (or few) states and school districts should be large financial losers. The only way to accomplish this is to provide more money under the new consolidated program than under the previous categorical parts.

16. If additional federal funding is not available, grant consolidation tends to be an extremely hazardous undertaking. Since most existing large federal programs are already broad-gauge and since consolidation could well harm existing "have-not" beneficiaries of federal aid, there seems little payoff — politically, educationally, or managerially — in launching such an effort unless the financial stakes make it all worthwhile.

Block Grants or Categorical Aids? Rather than get hung up in that tired rhetoric, let's ask ourselves: What *objectives* are important in federal aid to education? With objectives more clearly understood, the means to attain them should be more easily discerned than in today's muddled atmosphere.

Pages 71-78

THE VIEW FROM THE HILL.

Robert C. Andringa

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Eleven Factors Influencing Federal Education Legislation

Robert C. Andringa

Federal education laws are the product of an uneven amalgam of forces, pressures, prejudices — and even accidents. Some of the factors that have the greatest ultimate effect in shaping national legislation nevertheless appear more often than others, in the judgment of Congressional staff members in education. Here, in a ranking of importance for which I take full responsibility, are the variables that emerge as the most significant:

1. *Personal judgment and values of usually no more than six to ten Members of Congress and staff.*

Major bills have many issues and components. Each bill or component is normally shaped and resolved by a small handful of people and later ratified by the full House and Senate. To a considerable degree, the experiences and judgments of these six to ten individuals (formed in large part by the following variables) shapes the final decision.

2. *Strong views of respected and trusted friends.*

Each Member has a few trusted friends with knowledge in some particular area. These are friends from his home area, experts with whom he or she has developed a friendship over the years, other Members and their staffs, or individuals recommended by close associates. In many cases, their views and advice prevail over those of more nationally recognized authorities.

3. *Assumptions about the economy and budget.*

The policy views or mindset of a Member about the economy are often influential in creating new programs or in cutting back on program authorities. His or her sense of priorities among various educational needs may also prove to be important.

4. *Public opinion and the popular media.*

Most Members do not support ideas which they feel do not have, or could not get, general public support. Many shape their perceptions about educational needs by reading popular, rather than specialized, publications. On the whole, only the few people most involved in a legislative area tend to read education publications.

5. *Strong views and efforts of major interest groups.*

The education lobby is not one of the strongest in Washington, yet major associations and coalitions can force consideration of issues they feel important. Sometimes consensus among interest groups is important and sometimes a weakly developed consensus backfires.

6. *Descriptive information about federal programs.*

Most of this comes from the Executive Branch and a few educational associations. Members relate this to what they personally expect a program to accomplish. Many, however, are suspicious of self-serving materials emanating from federal agencies.

7. *Congressional hearings.*

Attendance is often low, but key Members are usually present to hear educators present long, dull papers full of jargon. Many witnesses are not willing to be completely candid in formal, on-the-record sessions. Field hearings are more important, although they are infrequent.

8. *General Accounting Office reports and other independent reports on programs.*

Studies by the GAO are accepted because GAO is an arm of the Legislative Branch and its studies are done at the request of, or in cooperation with Members. The same applies to the Congressional Research Service of the Library of Congress. Some other non-federal studies of existing federal programs are given similar credibility.

9. *Policy research studies and reports.*

These are often too long and full of jargon or statistics that few understand. Few people on the Hill have time to read such things. Some studies use old data or come up with ideas Members have long since rejected. These reports often have greater influence when the material in them comes indirectly, through the other items on this list.

10. *Administration views and lobby efforts.*

Congress naturally puts this factor low when the majority party is different from that of the President. Proposals are often influenced more by budget constraints than sound educational policy. Recommendations are often submitted too late in the process, but recommendations of a technical nature to improve current programs have a much better rate of success.

11. *Program evaluation studies.*

Most of these are done by the U.S. Office of Education under contract. Many are too late and use data that are too old. Many studies try to quantify results that can not easily be quantified. Most studies are done in isolation from other similar studies and miss the "big picture."

Pages 81-98

CONGRESS, INFORMATION AND POLICYMAKING FOR POSTSECONDARY EDUCATION: "DON'T TROUBLE ME WITH THE FACTS."

Thomas R. Wolanin

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Pages 99-102

LEGISLATIVE REVIEW: WAR, PEACE
OR ARMED TRUCE?

Howard M. Klebanoff

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Pages 103-106

POLITICIANS AND EDUCATORS: TWO WORLD VIEWS.

Samuel Halperin

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